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Stipulation of Facts

(Title of Court and Cause) 781

It is hereby stipulated and agreed by and between the parties hereto, by their respective solicitors, as follows:

ARTICLE I

SCOPE OF STIPULATION, IDENTITY OF PARTIES AND DEFINITIONS

1. *Scope of Stipulation.*

A. For the purposes of this proceeding only, and 782
without prejudice to any other suit or proceeding between the parties hereto, or otherwise, the facts contained in this stipulation and in the exhibits filed herewith (except as in this section otherwise expressly provided) shall have the same force and effect as though offered and received in this proceeding as the testimony of competent witnesses, or as competent documents. In the event of variance between the pleadings and this stipulation in any respect, the pleadings may be deemed to be amended, in accordance with the facts herein stated, but admissions contained in the pleadings shall be 783
deemed to be a part of the record.

B. None of the parties, by entering into this stipulation, shall be deemed to have conceded the relevancy or materiality of any fact herein contained and no objection shall be required to be entered on the record to preserve the right of any party to question such relevancy or materiality at any stage of the proceeding.

784 C. Each of the parties waives the right to offer evidence, oral or documentary, upon the trial of this cause, and agrees that this proceeding shall be submitted upon the pleadings, this stipulation, and such facts as the court may properly judicially notice.

D. None of the parties shall be deemed to have waived any objection in point of law to the sufficiency of any of the pleadings filed herein, and each of the parties reserves the right to assert any such objection which might have been made by way of motion to dismiss, motion to strike or otherwise,
785 as fully as though this stipulation had not been made; *provided,* that the plaintiff and cross-defendants waive any defense to the counterclaim and cross-bill upon the grounds of absence of necessary parties defendant to said counterclaim and cross-bill, improper venue or lack of service of process.

E. All of the exhibits identified in this stipulation and filed herewith shall be deemed to be a part of this stipulation.

786 The entitlements of the articles and sections of this stipulation are inserted solely for the convenience of the court and the parties, and shall not be deemed to be a part hereof.

2. *Identity of Plaintiff and Cross-Defendants.*

A. The plaintiff is the Securities and Exchange Commission (hereinafter referred to as the "Commission").

Stipulation of Facts

B. The cross-defendants, James M. Landis, William O. Douglas, (who has qualified as a Member of the Commission subsequent to the date of the filing of the answer and cross-bill, and who now appears herein as a cross-defendant), Robert E. Healy, George C. Mathews and James D. Ross (hereinafter referred to as the "members of the Commission") are the duly appointed and acting members of the Commission. 787

C. The cross-defendant, Homer Cummings (hereinafter referred to as the "Attorney General") is the Attorney General of the United States. 788

D. The cross-defendant, James A. Farley (hereinafter referred to as the "Postmaster General") is the Postmaster General of the United States.

3. *Definitions.*

A. The term "Act" as used herein, means the Public Utility Holding Company Act of 1935, being Title I of the Public Utility Act of 1935, approved August 26, 1935 (Public No. 333, 74th Congress).

B. Section 2 (a) of the Act defines the following terms, among others: 789

Electric Utility Company
Gas Utility Company
Public Utility Company
Holding Company
Subsidiary Company
Holding Company System
Associate Company

790

Affiliate
Registered Holding Company
Security
Voting Security
Sales Contract
Service Contract
Construction Contract
Integrated Public Utility System

When the foregoing terms are used in this stipulation, (unless the context otherwise plainly indicates) they are used in their statutory sense as defined in Section 2 (a) of the Act.

791

C. The terms "defendant" and "defendants", as used herein (unless the context otherwise plainly indicates), include the intervening defendants.

4. *Identity of Defendants.*

A. The defendant, Electric Bond and Share Company (herein referred to as "Bond and Share") is a holding company, as defined in the Act, owning more than 10% of the outstanding voting securities of the following defendants which are also holding companies, as thus defined:

792

American Gas and Electric Company (herein referred to as "American Gas")
American Power & Light Company (herein referred to as "American Company")
National Power & Light Company (herein referred to as "National Company")
Electric Power & Light Corporation (herein referred to as "Electric Company")

Bond and Share also owns more than 10% of the outstanding voting securities of American & 793
Foreign Power Company Inc., which owns the voting securities of public utility companies operating wholly in foreign countries, and which is not a party defendant hereto.

B. The following defendants are all holding companies, as defined by the Act, owning more than 10% of the outstanding voting securities of holding companies or public utility companies:

American Gas
American Company 794
National Company
Electric Company
United Gas Corporation (herein referred to as "United Company")
Power Securities Corporation (herein referred to as "Power Company")
Lehigh Power Securities Corporation (herein referred to as "Lehigh Company")
Easton Consolidated Electric Company (herein referred to as "Easton Company")

The foregoing defendants are herein collectively re- 795
ferred to as the "holding defendants".

C. The following defendants are holding companies, as defined by the Act, owning more than 10% of the outstanding voting securities of public utility companies, and are also public utility companies, as defined by the Act:

Utah Power & Light Company
United Gas Public Service Company

Houston Gulf Gas Company
796 Nebraska Power Company
Pacific Power & Light Company
Appalachian Electric Power Company
The Ohio Power Company
The Scranton Electric Company
Atlantic City Electric Company
The Washington Water Power Company
Pennsylvania Power & Light Company

The foregoing defendants are herein collectively referred to as the "holding-operating defendants".
797 Idaho Power Company and The Montana Power Company, named in the cross-bill as holding companies, have ceased to be holding companies by reason of their acquisition of all of the properties of their public utility subsidiaries.

D. The following defendants are public utility companies, as defined by the Act:

Central Arizona Light and Power Company
Indiana & Michigan Electric Company
Idaho Power Company
The Montana Power Company
798

The foregoing defendants are herein collectively referred to as the "operating defendants".

E. The following defendants are subsidiaries of defendant, The Washington Water Power Company, but are neither holding companies nor public utility companies, as defined by the Act:

Spokane United Railways (a Washington Corporation operating a street railway and bus system in the City of Spokane, Washington)

Spokane Central Heating Company (a Washington Corporation operating a central steam heating system in the City of Spokane, Washington) 799

The defendant, Montana Power Gas Company, is a subsidiary of defendant, American Company, but is not a public utility company, being engaged solely in the production and transmission of natural gas, and having no facilities for the distribution thereof.

The foregoing defendants are herein collectively referred to as the "non-utility defendants". 800

F. Bond and Share, the holding defendants, the holding-operating defendants, the operating defendants, the non-utility defendants and other corporations, hereinafter more particularly described, form a holding company system, as that term is defined in the Act. Such system is herein referred to as the "Bond and Share System". American Gas and its subsidiaries, American Company and its subsidiaries, Electric Company and its subsidiaries, and National Company and its subsidiaries, respectively, form separate holding company systems. These systems are herein referred to as the "American Gas System", the "American Company System", the "Electric Company System", and the "National Company System", respectively. Defendants do not admit that they, with their respective subsidiaries, constitute a "system", except as defined by the Act, and wherever hereinafter the characterization "system" is applied to said companies as a group, such application, so far as defendants are concerned, is subject to this reservation. 801

ARTICLE II

802

FAILURE TO REGISTER UNDER, EXEMPTIONS FROM, AND VIOLATIONS OF, THE ACT

5. *Failure to Register under the Act.*

Bond and Share, the holding defendants and the holding-operating defendants, having been advised by counsel that the Act, in their opinion, is unconstitutional, and that registration thereunder

> "would involve a sacrifice of the status of a
803 non-registered holding company, and would probably leave the company in a position where it would be required to attack specifically every order of the Commission which was deemed to be unlawful and violative of its rights. The future of the company would be so clouded as to make it very difficult, if not impossible, for it to functon effectively, pending the time that the Commission made some order, rule or regulation which would be sufficiently broad to permit a general challenge of its powers, and determination of the company's rights;"

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(plaintiff and cross-defendants admitting only that responsible counsel so advised the defendants and expressly denying concurrence in counsel's opinion) have not registered with the Commission pursuant to Section 5 of the Act, and they have stated that they do not intend voluntarily so to register. None of said defendants has made application to the Commission under Section 2 (a) (7) of the Act for an order declaring that it is not

a holding company within the meaning of the Act, or under Section 3 (a) or any other section of the Act for an order exempting it from any provision of the Act. Except as stated in Paragraph 6 hereof, the Commission has made no order exempting any of said defendants from any provision of the Act. None of the operating defendants has made application to the Commission under Section 2 (a) (8) of the Act for an order declaring that it is not a subsidiary company, within the meaning of the Act, of one or more of the holding defendants and no such order has been made by the Commission. 805

6. *Exemption of Certain Defendants.* 806

On November 29, 1935, the Commission, acting pursuant to Section 3 (a) of the Act, adopted a rule known as Rule 3-A2, and on March 10, 1936, amended said rule which, as so amended, is now in full force and effect. Exhibit 1 is a copy of such rule, as amended. Said rule, as amended, exempts holding companies of the classes therein described from any obligation, duty or liability imposed by the Act upon such companies as holding companies (including the duty to register under Section 5 of the Act) until such time as the Commission shall terminate such exemption by amendment or repeal of the rule. The following defendants (herein referred to as the "exempt defendants") are included within one or both of the classes of companies defined in clauses (1) and (2) of said rule: 807

Appalachian Electric Power Company

Atlantic City Electric Company
Easton Consolidated Electric Company

The Ohio Power Company
808 Pennsylvania Power & Light Company
The Scranton Electric Company
The Washington Water Power Company

7. *Present Violatons of the Act by Defendants.*

A. Bond and Share, each holding defendant and each holding-operating defendant, (relying on the advice of counsel as aforesaid) with the exception of the exempt defendants, is now engaged in the performance of contracts, activities and transactions, in the ordinary course of its business as conducted
809 for many years last past, which violate one or more of the provisions of Section 4 (a) of the Act, and, unless otherwise ordered by a final decree not thereafter reversed or vacated, intends to continue, without registering, to engage in such activities and transactions.

B. All the holding defendants and all the holding-operating defendants (except Easton Consolidated Electric Company) have distributed and made the subject of public offering substantial amounts of their respective securities by use of the
810 mails or means or instrumentalities of interstate commerce, subsequent to January 1, 1925, and substantial amounts of said securities were owned or held on October 1, 1935, and are so owned or held on the date hereof by persons not resident in the respective states in which such defendants are respectively organized.

ARTICLE III

ENFORCEMENT OF THE ACT BY THE PLAINTIFF AND CROSS-DEFENDANTS

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8. *The Attorney General.*

The Attorney General has not instituted, nor has he threatened to institute, nor has he been requested to institute civil or criminal proceedings against the defendants or any of them, or any of their directors, officers, agents or employees for any violation of the Act, and he does not intend to institute such proceedings, at least 812
until the constitutionality of Sections 4 and 5 of the Act has been finally adjudicated in this proceeding and after receipt of a request from the Commission to institute such proceedings. In the event that Sections 4 and 5 of the Act are finally adjudicated to be constitutional in this proceeding, the Attorney General will not institute civil or criminal proceedings against the defendants or any of them, or against their directors, officers, agents or employees for any violation of the Act committed by them or any of them prior to the date of such adjudication. On November 21, 813
1935, the Attorney General publicly disclaimed any intention of instituting criminal proceedings for violations of the Act prior to an adjudication by the Supreme Court of the United States of the constitutionality thereof, and requested all United States Attorneys to act accordingly, by means of two written circulars transmitted to them and dated November 21, 1935, and December 7, 1935, respectively. Exhibits 2 and 3 are copies of such circulars.

9. *The Postmaster General.*

814 The Postmaster General has not excluded, nor has he threatened to exclude, nor has he been requested to exclude from the mails matter sent or attempted to be sent by the defendants or any of them in violation of the Act, and, whatever may be his authority under the Act, does not intend to exclude the defendants or any of them from using the mails for the transmission of matter in violation of the Act, at least until the constitutionality of Sections 4 and 5 of the Act is finally adjudicated in this proceeding. The Postmaster General has not threatened to re-
815 quest and will not request the Attorney General nor any United States Attorney to prosecute the defendants or any of them, or any of their directors, officers, agents or employees for using the mails in violation of the Act, at least until the constitutionality of Sections 4 and 5 of the Act has been finally determined in this proceeding. In the event that Sections 4 and 5 of the Act are finally adjudicated to be constitutional in this proceeding, the Postmaster General will not request the Attorney General or any United States Attorney to
816 prosecute the defendants or any of them, or any of their directors, officers, agents or employees, for any use of the mails, declared to be unlawful under the Act, which occurred prior to the date of such final adjudication. On December 4, 1935, the Postmaster General publicly disclaimed any intention of excluding any holding company from using the mails in violation of the Act, at least before the validity of the Act is judicially determined by the Supreme Court and by a letter of that date instructed all postmasters to act accordingly. Exhibit 4 is a copy of such letter.

10. *The Commission and the Members of the Commission.* 817

A. On October 9, 1935, the Commission promulgated a rule, under the authority vested in it by the Act, known as Rule 4, and on November 22, 1935, amended said rule. Said rule, as amended, provides that any person may include in any notification, statement, application, declaration, report or other documents filed with it pursuant to the Act, an express reservation of and refusal to waive any constitutional or legal rights, and that if such reservation or refusal to waive shall be held invalid by any court of competent jurisdiction, the filing, 818
signing or certifying of such document may, at the option of such person, be deemed to be void and of no effect. Exhibit 5 is a copy of such rule, as amended.

B. The Commission has not, nor have the Members of the Commission, instituted or threatened to institute or requested the Attorney General or any United States Attorney to institute any civil or criminal proceedings against the defendants or any of them, or any of their directors, officers, agents or employees for any violation of the Act, 819
except that the Commission has instituted this proceeding against certain of the defendants for the relief prayed in the amended and supplemental bill of complaint herein. Neither the Commission nor the Members of the Commission will institute or request the Attorney General or any United States Attorney to institute any further civil or criminal proceedings against the defendants or any of them, or any of their directors, officers, agents

820 or employees, at least until such time as the constitutionality of Sections 4 and 5 of the Act has been finally adjudicated in this proceeding. In the event that Sections 4 and 5 of the Act are adjudicated to be constitutional in this proceeding, neither the Commission nor the Members of the Commission will request the Attorney General or any United States Attorney to prosecute the defendants or any of them, or any of their directors, officers, agents or employees for any violation of the Act which occurred prior to the date of such adjudication. On November 22, 1935, the Commission
821 publicly announced, by means of a written press release delivered to the newspapers and press services, that, at least for the immediate future and until further notice, the Commission did not intend to make any recommendations to or requests upon the Department of Justice for the institution of proceedings to enforce criminal liabilities under the Act. Exhibit 6 is a copy of such press release.

C. The court may take judicial notice of all rules, regulations and orders issued by the Commission pursuant to the Act.

822 11. *Enforcement After Final Decree*

Nothing contained in sections 8, 9 and 10 is to be construed as admitting or denying, in the event the defendants are ordered to register by decree finally entered in this cause and not reversed or vacated, either the duty or the discretion of the Attorney General, the Postmaster General or the Commission, to enforce the Act, and

any orders, rules and regulations which the Commission may make thereunder, by civil action, the collection of fines, or the imposition of criminal penalties, for acts in violation of the Act, or any of said rules, regulations or orders of the Commission, done, or omitted to be done, by any of the defendants, or their subsidiaries, subsequent to such final decree and its affirmance by the court of last resort. 823

12. *Cost of Registration*

Under the rules and regulations issued by the Commission for preliminary registration, in accordance with the provisions of subsection (c) of Section 5 of the Act, no substantial expense is required to be incurred by any company for such preliminary registration. The expense of complete registration (required by said subsection (c) not later than one year after date of registration), under the provisions of subsection (b) of Section 5, will be substantial for each registrant. It is impossible to state precisely what such expense would be until the Commission adopts rules and regulations under subsection (b). Qualified witnesses for the holding defendants would testify, based on their experience in preparing somewhat similar statements under the Securities and Exchange Act of 1934, and on their estimates as to the cost of compliance with the specific subdivisions of subsection (b) of Section 5, including costs of audits, lawyers' fees, printing charges, and other items of expense, that the cost of such registration for Bond and Share and for each holding defendant 824 825

would be on the average not less than $10,000,
826 if the balance sheets and profit and loss statements specified by Paragraphs (H) and (I) of subsection (b) are not required to be certified by independent public accountants, and that such cost of registration would be approximately $60,000 for Bond and Share and for each such other defendant, if such balance sheets are required to be audited by independent public accountants. Qualified witnesses for the plaintiff would testify, while conceding that the expense of compliance with adequate rules and regulations carrying out the registration requirements of subsection (b) would be substantial,
827 that it is not the intention of the plaintiff to impose burdensome requirements, and, that, while no accurate estimate of expense can be made until rules and regulations are promulgated, in their opinion, the expense of registration would more closely approximate the lesser than the higher figures estimated by defendants' witnesses. Exhibit 7 is a copy of the form for notification of registration adopted by the Commission under section 5(a) of the Act.

13. *Legislative Hearings on the Act*

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Upon the introduction in the Congress of the bill, which later became the Public Utility Act of 1935, there was organized a committee of public utility executives for the purpose of opposing said bill by the production of testimony before the appropriate committees and by publicity. The Bond and Share group was represented thereon, contributed to the expense thereof and its attorneys were also among the attorneys for said committee.

Said committee, through various members, among whom were members identified with the Bond and Share group, appeared before the appropriate committees of Congress and gave testimony in opposition to the said bill. Thereafter said committee, because of statements of the Senate Committee that serious consideration would only be given to specific amendments to the bill as prepared, acting through its Chairman, gave to the members of the Senate and House Committees the proposed amendments to said bill embodied in Exhibit 8. Reference is hereby made to the testimony before the Committees of Congress, of which the Court may take judicial notice, for further explanation of the position taken by representatives of the Committee of Utility Executives and of the defendants.

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ARTICLE IV

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GENESIS AND GENERAL DESCRIPTION OF BOND AND SHARE AND HOLDING DEFENDANTS

14. Bond and Share was organized in 1905 by General Electric Company, the largest manufacturer of electrical equipment in the United States. The experience that culminatd in its organization is described briefly and in general terms in a report of the Federal Trade Commission (Document 92, Part 72-A, Senate, 70th Congress, 1st Session, Pages 86 and 87) as follows:

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"An organization that gave a great impetus to the formation of holding companies in the electric power industry, particularly holding companies of the diversified investment type, was Electric Bond & Share Co. It was organized by General Electric Co. in 1905. A brief statement of the experience that culminated in its organization will be instructive. In the early days of the electrical industry, manufacturers of electric equipment adopted a policy of creating a market for their prod-

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ucts by assisting in the promotion of electric railway and lighting companies. In addition to being ventures in a new industry, electric railway and electric light companies were local enterprises. Capital available locally was frequently limited, while the companies being unknown in larger banking and investment centers could find only a very limited market for their securities and often at unfavorable prices. Consequently, in the promotion of local companies in order to sell equip-

ment, manufacturers took the securities of such local companies in part payment for 835
equipment. In order to turn such holdings into cash, the Thompson-Houston Electric Company organized United Electric Securities Company in 1890 to take over bonds of operating companies and to place them in trust where they constituted a diversified collateral for the issuance of bonds or debentures of the financially better-known United Electric Securities Company which were sold to the public. When Thompson-Houston Electric Company was absorbed in the formation of General Electric Company, the latter fell heir to United 836
Electric Securities Company. In 1904 General Electric Company organized a second company of the same type known as "Electrical Securities Corporation". These two companies confined their activities to the holding of bonds of operating companies and to a very large extent solved the problem of the substitution of saleable bonds backed by collateral consisting of diversified portfolios of these bonds of local companies. The substituted bonds were retired as the underlying issues 837
fell due and were paid by the operating companies.

Early operating companies were financed in some instances very largely by the issuance of bonds. Where too large a proportion of the company's capitalization was raised in this way, the demands of the fixed interest later proved to be a factor endangering the solvency of the company in times of depression.

838 After the panic of 1893 bankers began to insist that the operating companies be financed through the sale of bonds to the extent of not more than 50 percent of their capitalization. This requirement definitely raised the problem of making capital stock of operating companies attractive to the public.

This was particularly true of the capital stocks of companies operating in smaller cities. General Electric Company found itself with a considerable amount of such capital stocks on its hands, but also saw the possibility of increasing its sales of equipment if a way 839 could be found to make such unpopular stocks attractive to investors. Electric Bond and Share Company was organized in 1905 to solve this problem of disposing of capital stocks of operating utilities by using them as a basis for issuing other securities.

The plan of the Electric Bond and Share Company came to involve the following characteristics: (1) That 50 to 60 percent of the capitalization of operating companies should be in the form of bonds sold to the public; (2) that 20 to 25 percent should be in pre- 840 ferred stock, also to be sold to the public; (3) that 20 to 25 percent should be common stock representing control, which common stock would be taken by a holding company; (4) avoidance of the closed type of mortgage on properties of operating companies, so as to enable the issuance of additional bonds on the basis of the acquisition of additional properties or of new construction; (5) territorial

diversification of the operating companies whose controlling common stocks were owned by any one holding company, in order that any benefit of diversity in climate and industrial factors affecting both the quantity and the continuity of gross earnings might be obtained; and (6) the organization of personnel to perform financial management, operating management, engineering and construction services for affiliated companies for profitable fees. 841

Pursuant to this plan of corporate structure, securities structure and management, Electric Bond and Share Company participated in the formation of five holding companies of the diversified investment type. These were: American Gas and Electric Company, formed in 1906; American Power & Light Company, formed in 1909; National Power & Light Company, formed in 1921; American & Foreign Power Company Inc., formed in 1923 (for foreign utilities only); and Electric Power & Light Corporation, formed in 1925." 842

The parties agree that the foregoing statement presents an accurate general outline of the characteristics and course of development of the Bond and Share System, except (1) defendants do not admit that the services performed by Bond and Share are properly characterized as "management" services, and (2) plaintiff and cross-defendants do not admit that any benefits resulted from the territorial diversification of the operating companies whose common stocks were owned by a single holding company. 843

844 These holding companies above described, other than American & Foreign Power Company Inc., have, from time to time acquired and now own substantial majorities (generally in excess of 90%) of the voting stocks of electric (and in some cases gas) public utilities which operate in a number of different states in the United States. Such public utilities are located in states from Pennsylvania to Oregon and from Minnesota to Florida. Each of these public utilities is hereinafter particularly described. The locations of their physical properties are further identified by reference to the map exhibits 110, 113, 114 and 116.

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ARTICLE V

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FINANCIAL STRUCTURES AND CORPORATE INTER-RELATIONSHIPS OF THE DEFENDANTS AND THEIR SUBSIDIARIES

15. *Charts of Corporate Inter-Relationships.*

Exhibit 9 is a set of corporate charts showing the relationships of the holding defendants and their subsidiaries to Bond and Share and to each other. The financial structure of each of the companies shown on this chart and the corporate inter-relationships existing among them are set 848
forth in detail in the following paragraphs of this stipulation. Statements of outstanding securities and their ownership are as of November 30, 1935, but there have been no substantial changes since that date.

16. *Bond and Share.*

A. Bond and Share is a New York corporation having its principal place of business at 2 Rector Street, New York City. At no time has it qualified to do business as a foreign corporation in any other 849
state.

B. Bond and Share has no funded debt. Its presently outstanding capital stock consists of the following:

Class	*No. of Shares Outstanding*
$6 Preferred Stock	1,155,655
$5 Preferred Stock	300,000
Common Stock	5,267,147

Each share of stock is entitled to one vote.

850 Exhibit 10 is a brief history of the capitalization of Bond and Share.

C. Bond and Share owns the following voting securities of American Gas, American Company, National Company, Electric Company and United Company (a subsidiary of Electric Company which owns 61.58% of its outstanding voting securities, as hereinafter explained) which represent the following percentages of the total outstanding voting securities of each of said companies:

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Company and Class of Stock	*No. of Shares Held*	*Percentage of Outstanding Voting Securities*
American Gas		
Common Stock	846,985	17.51%
American Company		
$5 Preferred Stock	51,840	20.70%
Common Stock	937,213	
National Company		
Common Stock	2,540,438	46.56%
852 Electric Company		
$7 Preferred Stock	485	47.20%
Common Stock	1,976,638	
United Company		
$7 Preferred Stock	17,310	7.18%
Common Stock	752,666	

D. Bond and Share owns no voting securities of any of the defendants or their subsidiaries other than those set forth in Paragraph C. Bond and

Share does, however, own non-voting securities of certain of the defendants and their subsidiaries. 853
Schedule A of Exhibit 28 is a statement of all of the securities now owned by Bond and Share, including securities (voting and non-voting) of the defendants and their subsidiaries.

E. Bond and Share owns more than 10 % of the outstanding voting securities of American & Foreign Power Company Inc. American & Foreign Power Company Inc. is a holding company which owns voting securities of other holding companies and public utility companies, all of which operate entirely in countries outside of the United States. 854
American & Foreign Power Company Inc. has made application to the Commission for an exemption from the provisions of the Act, pursuant to Section 3 (a) thereof. Exhibit 11 is a balance sheet of American & Foreign Power Company Inc. showing its assets and liabilities as of December 31, 1935, and Exhibit 12 is a consolidated balance sheet of American & Foreign Power Company Inc. and its subsidiaries showing their consolidated assets and liabilities as of the same date.

F. Bond and Share owns all of the outstanding 855
capital stock of Ebasco Services Incorporated (herein referred to as "Ebasco"), which furnishes services to certain of the public utility companies in the Bond and Share System, and which, in turn, owns all of the capital stock of Phoenix Engineering Corporation (herein referred to as "Phoenix") and Two Rector Street Corporation, as hereinafter more fully described.

G. Bond and Share also holds for investment
856 the securities of public utility holding companies and other companies in addition to those hereinabove referred to, but no securities of public utility operating companies (other than bonds of certain operating companies in the Bond and Share system). In no case, however, does Bond and Share hold voting securities of such companies in an amount sufficient to constitute it either a holding company or an affiliate of such companies.

H. Exhibit 13 is a balance sheet of Bond and Share, showing its assets and liabilities as of Decem-
857 ber 31, 1935, which balance sheet was included in the annual report of Bond and Share for the year 1935. Bond and Share has never published a consolidated balance sheet of itself and the holding defendants.

17. *American Gas.*

A. American Gas is a New York corporation having its office at 30 Church Street, New York City. It has at no time qualified to do business as a foreign corporation in any other state. The
858 presently outstanding securities of American Gas consist of the following:

5% Debentures Due 2028	$50,000,000
$6 Preferred Stock	355,623 shares
Common Stock	4,482,737—31/50 shares

B. American Gas owns all of the outstanding voting securities, other than directors' qualifying shares, if any, of the following holding-operating defendants. Said defendants, in turn, own outstanding voting securities of the electric utility com-

panies named under them, which represent the percentages of the total outstanding voting securities of said companies set forth opposite their respective names: 859

(1) Appalachian Electric Power Company.

(a) Kentucky and West Virginia Power Company—100 %.
(b) Kingsport Utilities, Inc.—100 %.

(2) Atlantic City Electric Company.

(a) Deepwater Operating Company—50 %. 860

(3) The Ohio Power Company.

(a) Beech Bottom Power Company, Inc. 50 %.

(4) The Scranton Electric Company.

(a) Stanton Operating Company—50 %.

C. American Gas owns all of the outstanding voting securities of the following operating defendant: Indiana & Michigan Electric Company. 861

D. American Gas owns all of the outstanding voting securities of the following electric utility companies:

(1) Indiana General Service Company.
(2) Kanawha Valley Power Company.
(3) Southern Ohio Public Service Company.
(4) Wheeling Electric Company.

E. In addition to voting securities of the holding
862 companies and utility companies named in this section, American Gas or its subsidiaries own all or substantially all of the outstanding voting securities of certain non-utility companies. Exhibit 14 is a table setting forth the outstanding securities (both voting and non-voting) of American Gas, and of each company in the American Gas System, including non-utility companies. This table further shows the nature of the business of each such company and the amount of its securities held by American Gas or by another company in the American Gas System.

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F. Exhibit 15 is a balance sheet of American Gas, showing its assets and liabilities as of December 31, 1935, which balance sheet is contained in the annual report of American Gas to its stockholders for the year 1935.

G. Exhibit 16 is a consolidated balance sheet of the assets and liabilities of American Gas and its subsidiaries as of December 31, 1935, which balance sheet is incorporated in the annual report of American Gas to its stockholders for the year 1935.

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18. *American Company.*

A. American Company is a Maine corporation having an executive office at 2 Rector Street, New York City. It has at no time qualified to do business as a foreign corporation in any state. The presently outstanding securities of American Company consist of the following:

Gold debenture bonds, 6% series, due March 1, 2016	$43,420,500
6% Gold debenture bonds, series A, due March 1, 2022, of Southwestern Power and Light Company (assumed by American Company)	$ 4,159,000
$6 Preferred Stock	793,581—2/10 shares
$5 Preferred Stock	978,444 shares
Common Stock	3,008,511—27/50 shares

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B. American Company owns outstanding voting securities of the following holding-operating defendants, representing the percentages of the total outstanding voting securities of such defendants set opposite their respective names. Said defendants, in turn, own outstanding voting securities of the public utility companies named under them, which represent the percentages of the total outstanding voting securities of such companies set forth opposite their respective names:

(1) Nebraska Power Company—88.39%.

(a) Citizens Power & Light Company—99.97%.

(2) Pacific Power & Light Company—94.66%.

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(a) Inland Power & Light Company—99.95%.

(3) The Washington Water Power Company
868 —99.68 %.

(a) Chelan Electric Company—99.9 %.

C. American Company owns voting securities of the following operating defendants, representing the percentages of the total outstanding voting securities of such defendants set forth opposite their respective names:

(1) Central Arizona Light and Power Company—98.04 %.

869 (2) The Montana Power Company—99.75 %.

D. American Company owns outstanding voting securities of the following public utility companies, which represent the percentages of the total outstanding voting securities of said companies set forth opposite their respective names:

(1) Florida Power & Light Company—100 %.

(2) Kansas Gas and Electric Company—90.55 %.

870 (3) Minnesota Power & Light Company—93.03 %.

(4) New Mexico Electric Service Company—99.99 %.

(5) Northern Power Company—98.80 %.

(6) Northwestern Electric Company —67.63 %.

(7) Portland Gas & Coke Company—84.03 %.

(8) Superior Water, Light and Power Company—68.56%. 871

(9) Texas Electric Service Company—98.96%.

(10) Texas Power & Light Company—96.76%.

(11) Texas Public Utilities Corporation—99.95%.

E. In addition to voting securities of the holding companies and utility companies named in this section, American Company or its subsidiaries own all or substantially all of the outstanding 872 voting securities of certain non-utility companies (including the non-utility defendants). Exhibit 17 is a table setting forth the outstanding securities (both voting and non-voting) of American Company and of each company in the American Company System, including non-utility companies. This table further shows the nature of the business of each such company and the amount of its securities held by American Company or by another company in the American Company System.

F. Exhibit 18 is a balance sheet of American 873 Company showing its assets and liabilities as of December 31, 1935, which balance sheet is contained in the annual report of American Company to its stockholders for the year 1935.

G. Exhibit 19 is a consolidated balance sheet of the assets and liabilities of American Company and its subsidiaries as of December 31, 1935, which

balance sheet is contained in the annual report
874 of American Company to its stockholders for the year 1935.

19. *Electric Company.*

A. Electric Company is a Maine corporation having an executive office at 2 Rector Street, New York City. It has at no time qualified to do business as a foreign corporation in any state. The presently outstanding securities of Electric Company consist of the following:

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Gold debentures, 5% series, due 2030	$31,000,000
$7 Preferred Stock	514,174 shares
$6 Preferred Stock	255,430—2/3 shares
Second Preferred Stock, series A	83,539 shares
Common Stock	3,418,961—1/2 shares
Option Warrants to purchase 569,654 shares of Common Stock	

B. Electric Company owns all of the outstand-
876 ing voting securities of Power Company (a New Hampshire corporation having an executive office at 2 Rector Street, New York City) a holding defendant. Power Company owns 71.75% of the outstanding voting securities of Idaho Power Company, an operating defendant.

C. Electric Company owns 92.38% of the outstanding voting securities of the Utah Power & Light Company, a holding-operating defendant.

Utah Power & Light Company owns voting securities of the following utility companies representing the percentages of the total outstanding voting securities of said companies set opposite their respective names: 877

(1) Utah Light and Traction Company—99.98%.

(2) Bountiful Light and Power Company—98.29%.

(3) The Western Colorado Power Company—99.97%.

878

D. Electric Company owns voting securities of the following utility companies, which represent the percentages of the total outstanding voting securities of said companies set opposite their respective names:

(1) Arkansas Power & Light Company—90.22%.

(2) Dallas Power & Light Company—69.98%.

(3) Louisiana Power & Light Company—95.43%. 879

(4) Mississippi Power & Light Company—94.03%.

(5) New Orleans Public Service Inc. —95.08%.

E. Electric Company owns 61.58% of the outstanding voting securities of United Company, a

holding defendant. The subsidiaries of United Com-
880 pany are described in the following section of this stipulation.

F. In addition to voting securities of the holding companies and utility companies named in this section, Electric Company and its subsidiaries own all or substantially all of the outstanding voting securities of certain non-utility companies. Exhibit 20 is a table setting forth the outstanding securities (both voting and non-voting) of Electric Company and of each company in the Electric Company System, including the subsidiaries of
881 United Company and non-utility companies. This table further shows the nature of the business of each such company and the amount of its securities held by Electric Company or by another company in the Electric Company System.

G. Exhibit 21 is a balance sheet of Electric Company showing its assets and liabilities as of December 31, 1935, which balance sheet is contained in the annual report of Electric Company to its stockholders for the year 1935.

882 H. Exhibit 22 is a consolidated balance sheet of the assets and liabilities of Electric Company and its subsidiaries (including United Company and its subsidiaries) as of December 31, 1935, which balance sheet is incorporated in the annual report of Electric Company to its stockholders for the year 1935.

20. *United Company.*

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A. United Company is a Delaware corporation having an executive office at 2 Rector Street, New York City. It has at no time qualified to do business as a foreign corporation in any state. The presently outstanding securities of United Company consist of the following:

6% Notes, due July 20, 1936	$21,250,000
6% Demand Note	$25,925,000
6% Note, due Nov. 30, 1938	$ 3,000,000
$7 Preferred Stock	442,822 shares
$7 Second Preferred Stock	884,680 shares
Common Stock	7,818,959 shares
Option and stock purchase warrants to purchase 4,867,982 shares of Common Stock	

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B. United Company owns all of the outstanding voting securities of United Gas Public Service Company, a holding-operating defendant. United Gas Public Service Company owns 99.48% of the outstanding voting securities of Houston Gulf Gas Company, a holding-operating defendant. Houston Gulf Gas Company owns 99.31% of the outstanding voting securities of Houston Gas and Fuel Company, a utility company.

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C. United Gas Public Service Company owns voting securities of the following gas utility companies, representing the percentages of the total outstanding voting securities of said companies set opposite their respective names:

886 (1) Northern Texas Utilities Company—98.14%.

(2) Southern Gas Utilities, Inc.—99.99%.

(3) Natural Gas Company, Inc.—50%.

(4) Monroe Gas Company (which owns the remaining 50% of the outstanding voting securities of Natural Gas Company, Inc.)—24%.

D. United Company owns 46% of the outstanding voting securities of Mississippi River Fuel Cor-
887 poration.

E. Exhibit 23 is a balance sheet of United Company showing its assets and liabilities as of December 31, 1935, which balance sheet is contained in the annual report of United Company to its stockholders for the year 1935.

F. Exhibit 24 is a consolidated balance sheet of the assets and liabilities of United Company and its subsidiaries as of December 31, 1935, which balance sheet is incorporated in the annual report
888 of United Company to its stockholders for the year 1935.

21. *National Company.*

A. National Company is a New Jersey corporation having an executive office at 2 Rector Street, New York City. It has at no time qualified to do business as a foreign corporation in any state. The presently outstanding securities of National Company consist of the following:

6% Gold debentures, series A, due Aug. 1, 2026	$9,500,000	889
5% Gold debentures, series B, due May 1, 2030	$15,000,000	
$6 Preferred Stock	279,716 shares	
Common Stock	5,456,117 shares	

B. National Company owns 99.66% of the outstanding voting securities of Lehigh Company (a Delaware Corporation having an executive office at 2 Rector Street, New York City) a holding defendant. Lehigh Company owns outstanding voting securities of the following public utility companies, which represent the percentages of the total outstanding voting securities of said companies set forth opposite their respective names. Such companies, in turn, own outstanding voting securities of the public utility subsidiaries named under them which represent the percentages of the total outstanding voting securities of said subsidiaries set forth opposite their respective names: 890

(1) Pennsylvania Power & Light Company (a holding-operating defendant) —75.63%.

(a) Conestoga Transmission Company —27%. 891

(b) Lehighton Electric Light and Power Company—100%.

(c) Stanton Operating Company—50%.

(2) Lehigh Valley Transit Company—98.18%.

(a) Easton Consolidated Electric Company (a holding defendant, organized under the laws of New Jersey and having an executive office in Allentown, Pa.)—99.96%.

892

(i) The Edison Illuminating Company of Easton—100%.

C. National Company owns outstanding voting securities of the following utility companies which represent the percentages of the total outstanding voting securities of said companies set opposite their respective names:

893

(1) Birmingham Electric Company—100%.

(2) Carolina Power & Light Company—93.53%.

(3) Holston River Electric Company—100%.

(4) Houston Lighting & Power Company—91.32%.

(5) Memphis Power & Light Company—86.79%.

(6) Roanoke River Power Company—100%.

894

(7) Tennessee Public Service Company—99.31%.

(8) West Tennessee Power & Light Company—99.99%.

(9) Memphis Natural Gas Company—16.3%.

D. In addition to voting securities of the holding companies and utility companies named above,

National Company and its subsidiaries own all or substantially all of the outstanding voting securities of certain non-utility companies. Exhibit 25 is a table setting forth the outstanding securities (both voting and non-voting) of National Company and of each company in the National Company System, including non-utility companies. This table further shows the nature of the business of each such company and the amount of its securities held by National Company or by another company in the National Company System. 895

E. Exhibit 26 is a balance sheet of National Company showing its assets and liabilities as of December 31, 1935, which balance sheet is contained in the annual report of National Company to its stockholders for the year 1935. 896

F. Exhibit 27 is a consolidated balance sheet of the assets and liabilities of National Company and its subsidiaries as of December 31, 1935, which balance sheet is incorporated in the annual report of National Company to its stockholders for the year 1935.

22. *Investments of Defendants in Their Subsidiaries.* 897

Bond and Share's investment in the securities of the major holding defendants (American Company, Electric Company, United Company, National Company and American Gas) has exceeded, and now exceeds, the sum of $200,000,000. Schedule B of Exhibit 28 is a schedule of such investments, and Schedule C of said Exhibit is

a schedule of Bond and Share's investments in
898 American & Foreign Power Company Inc., showing both the cost and ledger values thereof and an explanation of the differences, if any, between such cost and ledger values. Bond and Share also owns bonds of operating subsidiaries of the holding defendants which cost it approximately $10,600,000, and which have a present value somewhat in excess of that amount. The investments of the holding defendants in the securites of their subsidiaries have amounted to, and now amount to, many millions of dollars, represented by common stock,
899 and, in certain cases, bonds, notes, debentures and preferred stocks. The respective investments of the holding-operating and operating company defendants in their own properties and/or in the securities of their respective subsidiary companies amount in each case to millions of dollars represented by bonds, stock and other securities largely held by the public. Additional information with respect to the cost of the investments of holding defendants and holding-operating defendants in their principal subsidiaries, and the ledger values thereof, are given in exhibits hereinafter referred to.

900

22A. *Charters of Bond and Share and Holding Defendants.*

Exhibit 29 contains excerpts from the charters and by-laws of Bond and Share and the major holding defendants.

23. *Trading in Securities of the Bond and Share System.*

The outstanding securities of Bond and Share and those securities of the companies in the Bond and Share System which are not owned by a holding company in the system are owned by persons residing in every state of the United States and in many foreign countries. The outstanding stock of Bond and Share is held by approximately 130,000 stockholders of record, the largest of whom owns approximately 1.5% of such stock. The outstanding securities of all of the companies in the Bond and Share System are held by more than 800,000 persons. Many of the securities issued by the companies included in the Bond and Share System are traded or dealt in, in substantial amounts, upon recognized stock exchanges of the United States. Exhibit 30 is a table of the securities of Bond and Share and of each company in the Bond and Share System which are traded or dealt in on a recognized stock exchange, showing the volume of such securities sold upon such exchanges during the calendar year 1935.

23A. *Payment of Interest and Dividends.*

Exhibit 31 contains tables and statements showing the payment of interest upon bonds and debentures and dividends upon preferred and common stock of Bond and Share, the major holding defendants, and their subsidiaries.

23B. *Appreciation and Depreciation of Property and Investment Accounts.*

Exhibit 31A contains tables, with an introduction thereto, relating to the appreciation and depreciation of property and investment accounts of certain defendants and their subsidiaries.

ARTICLE VI

904

ORGANIZATION AND HISTORY OF AMERICAN COMPANY

24. *Organization.*

About August, 1909, as part of a plan to finance certain electric properties located in Pittsburg, Frontenac and Wichita, Kansas, and in Astoria, Oregon, Bond and Share entered into a syndicate agreement with the owners of certain of the securties of companies owning such properties and investment bankers, under the terms
905 of which all interests in the properties were to be purchased by Bond and Share, acting as Syndicate Manager, and sold to a new company, the American Company, which was to be organized by Bond and Share for that purpose. Prior to the date of this agreement, both Bond and Share and certain of the members of the syndicate, other than the investment bankers, had owned substantial interests in one or more of these properties.

Pursuant to this agreement, the American Company was organized under the laws of Maine. The syndicate, at a total cost of approximately $2,000,-
906 000, acquired all the common stock and certain bonds of the companies owning the properties. The securities so acquired, together with $500,000 in cash, were transferred by the syndicate to the American Company in exchange for $2,500,000 par value of preferred stock and $5,500,000 par value of common stock of that company.

The syndicate sold to the general public all of the preferred stock and $2,000,000 in par value of the common stock of American Company for $2,500,000.

The syndicate retained common stock of the par value of $3,500,000, less stock of the par value of $798,100, delivered by it to brokers in payment of commissions. Bond and Share had a 60% participation in the syndicate and the investment bankers a 40% participation. The bankers' participation was apportioned, pursuant to the syndicate agreement, among individuals who were officers and employees of Bond and Share and such other persons or banks as the officers of Bond and Share deemed it desirable to interest in the project, including certain former owners of securities of the companies whose properties were acquired. 907

At the completion of these transactions, Bond and Share held 16,211 shares of common stock of the American Company. 908

The majority of the first permanent board of directors were officers or directors of Bond and Share.

Exhibit 32 is a copy of the plan of organization of American Company and subscription agreement for purchase of stock. Exhibit 33 is a table, prepared by examiners of the Federal Trade Commission and included in its report to the Senate (Sen. Doc. 92, 70th Congress, 1st Session, Vol. 23, p. 923) showing the cost to and profits (in stock) of the syndicate resulting from the organization of American Company. 909

Since the acquisition of these shares of stock, Bond and Share has, from time to time, acquired additional stock of American Company (1) in exchange for securities of other utility companies, (2) by purchases for cash in the open market, (3)

through stock dividends, and (4) through capital
910 readjustments under the terms of which additional shares of stock were issued to all stockholders without additional cash payments. Bond and Share now owns shares of preferred and common stock constituting 20.70% of the outstanding voting securities of American Company, which percentage has remained substantially constant for six years last past. The details of the present holdings of Bond and Share in American Company are set forth in Exhibit 28.

911 25. *Subsequent Acquisitions of Utility Properties.*

Subsequent to the acquisition of the properties described in section 24, American Company has, from time to time, purchased for cash or acquired in exchange for its own securities additional properties or securities of electric and, in some instances, of gas companies operating in a number of other, and widely separated, states of the United States.

American Company now owns the percentages of outstanding voting securities set forth in section 18
912 of the following electric and gas utility companies operating in the states indicated. Securities of such companies, representing substantial majorities of the outstanding voting securities of such companies, were acquired on or about the dates indicated below. In those instances in which such companies themselves own securities of other electric or gas companies, such subsidiaries are indicated under the name of the parent company.

Name of Company	*Date of Acquisition*	*States in Which Companies Operate*	913
Central Arizona Light and Power Company	1924	Arizona	
Florida Power & Light Company	1925	Florida	
Kansas Gas and Electric Company	1911	Kansas, with seven industrial customers and one municipal customer in Missouri	
Minnesota Power & Light Company	1923	Minnesota	
The Montana Power Company	1928	Montana and Idaho	914
Montana Power Gas Company	1932	Montana	
Nebraska Power Company	1917	Nebraska	
(a) Citizens Power & Light Company	1917	Iowa, with 700 feet of line in Nebraska	
New Mexico Electric Service Company		New Mexico	
Northern Power Company		Wisconsin	
Northwestern Electric Company	1925	Washington and Oregon	
Pacific Power & Light Company	1910	Washington and Oregon	
(a) Inland Power & Light Company	1923	Washington and Oregon	
Portland Gas & Coke Company	1910	Oregon and Washington	915
Superior Water, Light and Power Company	1925	Wisconsin	
Texas Electric Service Company	1929	Texas	
Texas Power & Light Company	1912	Texas	
Texas Public Utilities Corporation	1926	Texas	
The Washington Water Power Company	1928	Washington and Idaho	
(a) Chelan Electric Company	1928	Washington and Idaho	

Additional facts descriptive of the organization
916 and capitalization of certain of these companies are set forth in Exhibit 34. A detailed description of the physical properties, methods of operations, and the distribution of the business of these companies within the states in which they operate or across state boundaries, is set forth in article XIX.

26. *Physical Integration of Properties.*

None of the electric properties of any of the companies above mentioned is physically interconnected with those of another of such companies
917 except that:

(a) The properties of defendants The Washington Water Power Company, Chelan Electric Company and The Montana Power Company, most of the properties of Pacific Power & Light Company and of Inland Power & Light Company and the properties of Northwestern Electric Company are all interconnected by means of transmission lines.

(b) The properties of Minnesota Power &
918 Light Company, Northern Power Company and Superior Water, Light and Power Company, are interconnected by means of distribution lines.

(c) The properties of defendant Nebraska Power Company and its subsidiary company, Citizens Power & Light Company, are interconnected by means of distribution lines.

(d) Most of the properties of Texas Electric Service Company, Texas Power & Light Company and Texas Public Utilities Corporation, are interconnected by means of transmission lines. 919

A competent witness for defendants would testify that in the present state of the art none of the electric properties of the companies mentioned in this article is capable of physical interconnection with the properties of any other of said companies so as to be economically operated as a single interconnected and coordinated system, with the exceptions stated in this section and minor isolated systems of certain of the companies above mentioned, and the court, if material, may so find. The plaintiff and cross-defendants neither admit nor deny the foregoing statement, but offer no countervailing evidence. 920

27. *Extent of System and Service.*

The companies in the American Company System now render electric service and, in some instances, gas service to an aggregate population of approximately 3,431,000 residing in and near approximately 1,200 communities in the fourteen states in which they operate. In rendering such services these companies serve approximately 723,000 electric customers residing in and near 1,124 communities, and approximately 129,000 gas customers residing in and near 103 communities. In the rendition of electric service, these companies employ electric generating stations having an aggregate installed generating capacity of 921

1,281,968 kw, and approximately 9,757 miles of
922 transmission lines and 23,745 miles of distribution lines. In the rendition of gas service, these companies, in addition to purchasing large amounts of gas at wholesale, own gas plants having an aggregate capacity of 44,870 Mcf, and utilize approximately 406 miles of main pipe lines and 2,964 miles of distribution lines. The aggregate revenues of these subsidiary companies of American Company in the twelve months ending October 31, 1935, amounted to $87,156,470, of which $72,777,612 represented revenues from electric service, and $8,436,-
893 represented revenues from gas service. Exhibit
923 35 is a statement of the operating revenues of subsidiaries of American Company (including non-utility subsidiaries) for the year ended December 31, 1934.

924

ARTICLE VII

925

ORGANIZATION AND HISTORY OF ELECTRIC COMPANY

28. *Organization.*

In March, 1925, Bond and Share owned (a) a minority of the outstanding voting securities of Utah Securities Corporation which, in turn, owned securities of electric utility companies operating in Utah and Colorado, and (b) a majority of the outstanding voting securities of Power Company which, in turn, owned securities of an electric utility company operating in Idaho and Oregon. Bond and 926
Share further owned substantially all the outstanding voting securities of New Orleans Public Service Inc. (operating electric properties in New Orleans, Louisiana) and Dallas Power & Light Company (operating electric properties in Texas). As principal participant and manager of a syndicate, Bond and Share organized Electric Company, as successor to the Utah Securities Corporation, to which it transferred or caused to be transferred the securities held by it in Power Company, New Orleans Public Service Inc., Dallas Power & Light Company and certain other companies. Bond and 927
Share had acquired all the securities mentioned in this section on its own account at varying dates over a period covering many years prior to 1925.

At the completion of the organization of Electric Company, Bond and Share owned 299,772 shares of its common stock and 50,000 shares of its preferred stock, representing 16.9% of the outstanding voting securities of that company and 320,000 option warrants to subscribe to additional com-

mon stock. Of the fourteen members of the first
928 permanent board of directors six, including the chairman, were directors of Bond and Share and five of the remaining eight were directors of one or more of the other holding defendants. Prior to November 22, 1935, a majority of the members of the Executive Committee of Electric Company were at all times officers or directors of Bond and Share.

Subsequent to the organization of Electric Company, Bond and Share has from time to time acquired additional voting securities in that company principally through stock purchases, and through
929 the exercise of rights to subscribe for, and the underwriting of the sale of, additional stock in the year 1931. Bond and Share now owns shares of preferred and common stock representing 47.20% of the outstanding voting securities of Electric Company, which percentage has remained substantially constant for five years last past. Details of its present holdings in Electric Company are set forth in Exhibit 28.

29. *Subsequent Acquisitions of Utility Properties.*

930 Subsequent to the acquisition of the securities described in section 28, Electric Company has, from time to time, purchased for cash or acquired in exchange for its own securities additional securities in electric and, in some instances, in gas companies operating in a number of states of the United States. Through such acquisitions, and through consolidations, mergers, the organization of new corporations and transfers of properties or securities to such corporations, Electric

Company has acquired, during the years stated, the percentages of the outstanding voting securities set forth in section 19 of the following companies, operating or owning securities of companies operating utility or non-utility properties in the states indicated below. In those instances in which the companies named own securities of other electric companies, such subsidiaries are indicated under the name of the parent company. Electric Company's acquisition of the securities of the United Gas Corporation, omitted from the list below, is described in the following article. 931

932

Name of Company	*Date of Acquisition*	*States in Which Companies Operate*
Arkansas Power & Light Co.	1925	Arkansas
Louisiana Power & Light Co.	1927	Louisiana
Mississippi Power & Light Co.	1927	Mississippi
New Orleans Public Service, Inc.	1925	Louisiana
Dallas Power & Light Co.	1925	Texas
Dallas Railway & Terminal Co.	1925	Texas
Utah Power & Light Co.	1925	Utah, Idaho, Wyoming
(a) The Western Colorado Power Co.	1925	Colorado
(b) Bountiful Light and Power Co.	1934	Utah
(c) Utah Light and Traction Co.	1925	Utah
Power Securities Corporation	1925	
(a) Idaho Power Co.	1925	Idaho, Nevada, Oregon

933

Additional facts descriptive of the organization
934 and capitalization of Electric Company and certain of its subsidiaries are set forth in Exhibit 36. A detailed description of the physical properties, methods of operation, and the distribution of the business of these companies within the states in which they operate or across state boundaries are set forth in article XIX.

30. *Physical Integration of Properties.*

None of the electric properties of any of the companies above mentioned is physically interconnected with those of another of such companies except that:

(a) The principal properties of Idaho Power Company, Utah Power & Light Company, Utah Light and Traction Company and Bountiful Light and Power Company are interconnected by means of transmission and distribution lines.

(b) The principal properties of Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light
936 Company and New Orleans Public Service Inc. are interconnected by means of transmission lines.

A competent witness for defendants would testify that in the present state of the art none of the electric properties of the companies mentioned in this article is capable of physical interconnection with the properties of any other of said companies so as to be economically operated as a single interconnected and coordinated system, with the excep-

tions stated in this section, and minor isolated systems of certain of the companies above mentioned, and the court, if material, may so find. The plaintiff and cross-defendants neither admit nor deny the foregoing statement, but offer no countervailing evidence. 937

31. *Extent of System and Service.*

The companies in the Electric Company System (exclusive of United Company subsidiaries) now render electric and in some cases gas service to an aggregate population of approximately 2,423,000 residing in and near approximately 998 communities in the 10 states in which they operate. These companies serve approximately 427,739 electric customers residing in and near 979 communities and approximately 105,095 gas customers residing in and near 77 communities. They employ electric generating stations having an aggregate installed generating capacity of 705,500 kw and approximately 5,182 miles of transmission lines and 15,751 miles of distribution lines. Those companies which render gas service own gas plants having an aggregate capacity of 28,000 Mcf and utilize approximately 1,486 miles of distribution lines. The aggregate gross revenues of these companies for the twelve months ending October 31, 1935, amounted to $57,191,032 of which $40,730,509 represented revenue from electric service and $6,589,065 from gas service. Exhibit 37 is a statement of the operating revenues of subsidiaries of Electric Company (including non-utility subsidiaries) for the year ended December 31, 1934. 938 939

ARTICLE VIII

940

ORGANIZATION AND HISTORY OF UNITED COMPANY

32. *Organization.*

Acting as principal participant in and manager of a syndicate, Bond and Share organized the United Company in March 1930 as part of a plan to acquire the securities of Louisiana Gas & Fuel Company (a subsidiary of Electric Company) which owned gas properties and the securities of gas utility companies operating principally in Louisiana, and the United Gas Company
941 (whose short term notes and a minority common stock interest were held by Bond and Share) which owned gas properties and the securities of gas utility companies operating principally in Texas, and to obtain the cash required to acquire additional gas reserves, extend the existing pipe lines of these companies and interconnect them into a single system.

At the completion of the organization of United Company, Bond and Share received 453,000 shares of its common stock, and Electric Company received 642,930 shares of its $7 second preferred stock and
942 3,191,805 shares of its common stock, representing 61.55% of its voting securities, and option warrants to subscribe to 2,695,000 additional shares of common stock. The details of the organization and capitalization of United Company and the consideration for which its shares were issued are set forth in Exhibit 38.

Since the date of the organization of United Company, Bond and Share and Ebasco have successively performed general services of the char-

acter described in articles XIII, XIV and XV for all of the operating companies in the United Company System, and Bond and Share performed services for United Company, as a holding company, of the character described in article X until November 25, 1935. 943

Subsequent to the organization of United Company, Electric Company has acquired additional voting securities of that company for cash or in exchange for securities of other companies. The outstanding securities of United Company and the percentages held by Bond and Share, Electric Company and the public are set out in the following table. This percentage has remained substantially constant for five years last past. 944

	Total Par or Stated Value Outstanding	Held by Public	Elec. Pr. & Lt. Corp.	Elec. Bond & Share Co.
$7 First Preferred Stock	$44,982,000	100%		
$7 Second Preferred Stock	88,468,000	1%	99%	
Common Stock ($1 Par Value)	7,818,959	42%	48%	10%

945

The second preferred stock has three votes for each share held, while the first preferred stock has no voting privileges. Bond and Share owns securities representing 7% and Electric Company owns voting securities representing 61.58% of the aggregate voting rights in United Company. Details of the present holdings of Bond and Share and Electric Company in United Company are set forth in Exhibits 28 and 20.

33. *Subsequent Acquisitions of Utility Properties.*

946

Since 1930 United Company, through officers or employees of Bond and Share, has acquired the securities of various gas companies in return for cash or its own securities. Through such acquisitions, and through consolidations, mergers, the organization of new corporations and transfers of properties or securities to such corporations, United Company has acquired substantially all the voting securities of the following gas companies operating or owning the securities of utility companies operating in the states indicated below on
947 or about the dates indicated. In those instances in which the companies named own securities of other gas companies, such subsidiaries are indicated under the name of the parent company. The holdings of United Company in non-utility subsidiaries (and the nature of their business), and its minority holdings in utility subsidiaries are not included in the table below but are included in Exhibit 20.

Company	*Date of Acquisition*	*States of Operation*
948 United Gas Public Service Company	1930	Texas, Louisiana, Mississippi, Alabama, Florida.
(a) United Production Corporation	1930	Texas
(b) Southern Gas & Fuel Company	1930	Louisiana
(c) Campania Mexicana de Gas	1930	Mexico
(d) Southern Gas Utilities, Inc.	1930	Texas

(e) Northern Texas Utilities Company	1930	Texas and Oklahoma	949
(f) Houston Gulf Gas Company	1930	Texas	
(i) Houston Gas and Fuel Company	1930	Texas	

Additional facts descriptive of the organization of United Company and of the organization and capitalization of certain of its subsidiaries are set forth in Exhibit 38. A detailed description of the physical properties, methods of operation and distribution of the business of the gas utility subsidiaries of the United Company within the states 950
in which they operate or across state boundaries is set forth in article XIX.

34. *Physical Integration of Properties.*

All of the gas properties of the companies mentioned in the preceding section are physically interconnected by means of their own trunk pipe lines, or through transportation rights in pipe lines of other companies, extending from the Republic of Mexico through Texas, Louisiana, Mississippi and Alabama to Florida with the exception of a por- 951
tion of the properties of Northern Texas Utilities Company in northern Texas, which are not, at the present time, physically interconnected with the other properties in the system but which are probably susceptible of such interconnection. These properties are also connected with Mississippi River Fuel Corporation, in which United Company has a substantial interest and which has pipe lines extending into Arkansas, Missouri and Illinois.

Stipulation of Facts

35. *Extent of System and Service.*

952

The companies in the United Company System now render gas service to an aggregate population of approximately 2,348,000 residing in and near approximately 315 communities in the five states and one foreign country in which they operate. These companies serve approximately 122,281 gas customers, and handle approximately 202 billion cubic feet of gas per year, utilizing approximately 5,889 miles of pipe lines and 3,252 miles of distribution lines. The aggregate gross revenues of these companies for the twelve months ending October 31, 1935, amounted to $26,515,731.

953

954

ARTICLE IX

955

ORGANIZATION AND HISTORY OF NATIONAL COMPANY

36. *Organization.*

National Company was organized by Bond and Share in 1925 for the purpose of merging the former National Power & Light Company, a holding company, 15.9% of the outstanding voting securities of which were then held by Bond and Share, and United Investors Securities Company, approximately 30% of the voting securities of which were then held by Bond and Share. The former National Power & Light Company was a holding company owning voting securities of electric utility companies operating in Alabama, Texas, Arkansas and Tennessee. United Investors Securities Company was a holding company owning voting securities of electric utility companies operating in North and South Carolina.

956

At the completion of the organization of National Company, Bond and Share owned 525,240 shares of its common stock, representing 20.64% of the outstanding voting securities of that company. The majority of the first permanent Board of Directors of National Company were officers or directors of Bond and Share.

957

Subsequent to the organization of National Company, Bond and Share has, from time to time acquired additional voting securities of that company (1) in exchange for securities of other holding or utility companies and (2) by purchase for cash in the open market. Bond and Share now owns shares of common stock representing 46.56% of the outstanding voting securities of Na-

tional Company, which percentage has remained
958 substantially constant for six years last past. The details of its present holdings in National Company are set forth in Exhibit 28.

37. *Subsequent Acquisitions of Utility Properties.*

In 1928 National Company acquired substantially all of the outstanding voting securities of Lehigh Power Securities Corporation, 20.97% of the voting securities of which were owned by Bond and Share prior to such acquisition by National Company. Lehigh Power Securities Corporation
959 is a holding defendant owning substantial majorities of the voting securities of electric and gas utility companies operating in Pennsylvania.

Subsequent to the organization of National Company, as described in section 36, National Company has, from time to time, purchased for cash or acquired in exchange for its own securities additional properties or securities of electric, and in some instances, of gas companies operating in a number of widely separated states of the United States.

Through such acquisitions, and through consoli-
960 dations, mergers, the organization of new corporations and transfers of properties or securities to such corporations, National Company has acquired (on or about the dates mentioned) the percentages of the oustanding voting securities, set forth in section 21, of the following electric and gas utility companies and Lehigh Company, operating or owning the securities of utility companies operating in the states indicated below. In those instances in which the companies named own securities of other gas or electric companies, such subsidiaries

are indicated under the name of the parent company. 961

Name of Company	*Date of Acquisition*	*States in Which Companies Operate*
Birmingham Electric Company	1922	Alabama
Carolina Power & Light Company	1926	North and South Carolina
Holston River Electric Company	1926	Tennessee
Houston Lighting & Power Company	1922	Texas
Memphis Power & Light Company	1922	Tennessee
Roanoke River Power Company	1928	Virginia
Tennessee Public Service Company	1922	Tennessee
West Tennessee Power & Light Company	1925	Tennessee
Lehigh Power Securities Corporation	1924	
(a) Pennsylvania Power & Light Company	1920	Pennsylvania
(1) Stanton Operating Company	1927	Pennsylvania
(2) Lehighton Electric Light & Power Company	1927	Pennsylvania
(b) Lehigh Valley Transit Company	1917	Pennsylvania
(1) Easton Consolidated Electric Company	1917	
(i) The Edison Illuminating Company of Easton	1917	Pennsylvania

962

963

Additional facts descriptive of the organization
964 of National Company and of the organization and capitalization of certain of its subsidiaries are set forth in Exhibit 39. A detailed description of the physical properties, methods of operation and distribution of the business of the electric and gas utility subsidiaries of National Company within the states in which they operate or across state boundaries is set forth in article XIX.

38. *Physical Integration of Properties.*

965 None of the electric properties of any of the companies above mentioned is physically interconnected with those of another such company except that:

(a) Substantially all of the properties of Pennsylvania Power & Light Company and its electric utility subsidiaries and of Lehigh Valley Transit Company are interconnected by means of transmission and distribution lines.

966 (b) The properties of Carolina Power & Light Company, Tennessee Public Service Company, Holston River Electric Company and Roanoke River Power Company are interconnected by means of transmission lines, certain of which lines are owned by non-associate companies which have contracted to transmit electric energy for delivery to Carolina Power & Light Company, and the properties of Birmingham Electric Company are physically interconnected with those of the companies just

mentioned through the transmission lines of a non-associate company, but none of said companies transmits power to or receives it from Birmingham Electric Company. 967

(c) The properties of Memphis Power & Light Company and West Tennessee Power & Light Company are interconnected by means of transmission lines.

A competent witness for defendants would testify that in the present state of the art none of the electric properties of the companies mentioned in this article is capable of physical interconnection 968 with the properties of any other of said companies so as to be economically operated as a single interconnected and coordinated system, with the exceptions stated in this section, and minor isolated systems of certain of the companies above mentioned, and the court, if material, may so find. The plaintiff and cross-defendants neither admit nor deny the foregoing statement, but offer no countervailing evidence.

39. *Extent of System and Service.* 969

The companies in the National Company System now render electric service and, in some instances, gas service to an aggregate population of approximately 3,500,000 residing in and near approximately 1,040 communities in the seven states in which they operate. These companies serve approximately 682,039 electric customers residing in and near 1,039 communities and approximately

96,713 gas customers residing in and near
970 38 communities. They employ electric generating stations having an aggregate installed generating capacity of 907,344 kw and approximately 2,854 miles of transmission lines and 18,967 miles of distribution lines. Those companies which render gas service own gas plants having an aggregate capacity per day of 32,721 Mcf and utilize approximately 1,174 miles of distribution lines. The aggregate gross revenues of these companies for the twelve months ended October 31, 1935, amounted to $71,862,322, of which $60,733,829 represented revenue from electric service and $4,689,360 from gas
971 service. Exhibit 40 is a statement of the operating revenues of subsidiaries of National Company (including non-utility subsidiaries) for the year ended December 31, 1934.

972

ARTICLE X

973

PRESENT AND FORMER RELATIONS BETWEEN BOND AND SHARE AND HOLDING DEFENDANTS

40. *Preliminary Statement.*

In this article and in the following articles, XI to XV, inclusive, the interrelations among Bond and Share, American Company, Electric Company, United Company and National Company and their subsidiaries are described. The interrelations among Bond and Share and American Gas and its subsidiaries are not described in such articles, but are described in articles XVI and XVII. Therefore, in 974
these articles, X to XV, inclusive, the terms "holding defendants", "holding-operating defendants", "operating defendants", "subsidiaries", and similar terms, refer only to American Company, Electric Company, National Company or their subsidiaries, and exclude American Gas and its subsidiaries.

41. *Business of Holding Defendants.*

Since the date of their organizations, the holding defendants have acquired, owned and sold 975
securities of their respective subsidiaries, voting their voting securities so held, and from time to time making cash advances needed by them, realizing earnings through interest and dividends upon the securities of their respective subsidiaries (and in a few cases incidental interest earnings from other sources) and paying interest on their own obligations and dividends on their own stock and such other business as is herein stated to have been done by them.

42. *Stock Owned by Bond and Share and Voted*
976 *at Stockholders' Meetings.*

A. Bond and Share has owned and now owns the percentages of the total outstanding voting securities of the holding defendants hereinbefore stated. Stockholders' meetings of such holding defendants have been held annually since their organization, and occasionally special meetings have been called for the approval of security issues, agreements or consolidations and similar matters requiring stockholders' approvals. Calls or notices and proxies for these meetings were authorized by the respec-
977 tive boards of directors of these holding defendants and the personnel of the proxies were suggested to such directors by the respective officers of such companies (who, prior to approximately November 25, 1935, were also officers of Bond and Share). The respective secretaries of these companies sent out such notices and proxies. At the stockholders' meetings of these holding defendants, Bond and Share has voted the stocks of such companies owned by it through the proxies designated as above described. Exhibit 41 consists of tables
978 showing, for the past five years, the number of shares voted in person and by proxy at the stockholders' meetings of these holding defendants and the number of shares voted by Bond and Share (and in the case of United Company, shares voted by Electric Company). During such years, Bond and Share has voted the following approximate percentages of the total number of shares of stock represented at such meetings: American Company, 39%, National Company, 62%, Electric Company, 77%, United Company 8%, and Electric

Company has voted approximately 81% of the shares of stock represented at meetings of United Company. Exhibit 42 contains tables showing the distribution of the voting securities of American, Electric, United and National Companies. 979

B. Throughout the history of the holding defendants, there has been no instance in which there has been any contest over proxies or in which any interests hostile to the respective managements have organized opposition to the programs or policies of the respective managements or to the election of directors voted for by proxies designated by such managements. 980

C. As hereinbefore set forth in this stipulation, Bond and Share owns no voting securities of the holding defendants Lehigh Company, Power Company or Easton Company.

43. *Directors.*

A. No director, officer or employee of Bond and Share, or of its service subsidiary companies, is, or has been since shortly prior to November 25, 1935, a director of any of the holding defendants. 981

B. From and after the organization of each of said holding defendants until approximately November 25, 1935, Bond and Share had representation, by its directors, officers or employees, on the board of directors of each of said holding defendants. At meetings of the respective boards of directors of Bond and Share and the holding defendants, held in November, 1935, those directors of the several holding defendants who were also

directors, officers or employees of Bond and Share
982 either resigned their positions with Bond and Share or as directors of the respective holding defendants. Thereupon the respective boards of directors of the holding defendants proceeded to elect, to succeed the resigning directors, new directors who were not then directors, officers or employees of Bond and Share, but some of whom had been officers or employees of Bond and Share immediately prior to their election. Such new directors of the holding defendants included certain of their newly elected chief executive officers and persons not previously officially connected with the company or with
983 Bond and Share. The newly elected directors were requested to act as such by the chairman of the board of directors of Bond and Share or by other directors of the holding defendants after conferences between the chairman of the board of directors of Bond and Share, and the directors of the holding defendants still remaining on the boards.

C. Exhibit 43 contains tables showing the composition of the board of directors and executive committees of the holding defendants as of December
984 31, 1928, 1934 and 1935, indicating the affiliations of such directors.

44. *Conduct of Business and Service Arrangements*

A. Each holding defendant is separately incorporated, and it is and has been its practice at all times since its organization to maintain an independent and distinct set of corporate records and accounts, to maintain its own separate bank ac-

counts and portfolio of securities, separately to pay its own interest charges, dividends and all its other 985
expenses and disbursements from its own funds. Each major holding defendant has published separately, over its own name, its annual and periodical reports and statements, and has consolidated in such statements only the balance sheets, earnings statements and statistical data pertaining to its own operations and those of its subsidiaries without consolidation either with Bond and Share or with any other major holding defendant, except that Electric Company publishes a consolidated balance sheet which includes United Company. 986
Frequent meetings of the boards of directors of each holding defendant have been held and it is and has been the practice to submit all matters of importance, such as matters of finance, investments, acquisitions of additional properties, disposal of properties, loans, declarations of dividends and like matters, to the boards of directors of each holding defendant for appropriate action.

B. Each holding defendant (except Easton Company which has its offices at Allentown, Pennsylvania) has its offices at 2 Rector Street, New York, 987
where are located the offices of Bond and Share, and since November 25, 1935, each holding defendant has paid its own rent for such offices. Such offices have at all times constituted the only offices of the holding defendants other than their statutory offices in the respective states of their incorporation.

C. Since November 25, 1935, each of the holding defendants has had its own personnel of officers,

directors and employees. However, certain of the
988 officers and directors of National Company and Electric Company are also officers and directors of their respective subsidiary holding companies, Lehigh Company, Easton Company, United Company and Power Company, as hereinafter described in article XI.

D. Neither Bond and Share nor its subsidiary service companies (Ebasco and Phoenix) has now or has had since November 25, 1935, any supervisory, financial or other service contracts with any of the holding defendants, and neither Bond and
989 Share nor its subsidiary service companies has furnished any such services since that date. Neither Bond and Share nor its subsidiary service companies nor any of the officers, directors or employees of such companies, has had, since November 25, 1935, any authority to draw funds, sign contracts or legally to bind any of said holding defendants.

E. Prior to November 25, 1935, and from on or about the dates of the organization of the holding defendants, Bond and Share performed certain services for them pursuant to service contracts, more
990 fully described in article XIV. As a part of these services it provided them with complete staffs of officers and employees, who were also officers and employees of and were paid by Bond and Share. These officers and employees for many years last past received no salaries from the holding defendants, and the holding defendants employed no officers or employees other than those so provided

by Bond and Share. Bond and Share also provided the holding defendants with office space in its office building at 2 Rector Street, New York City, and with all of the office equipment and supplies required by them in the conduct of their business. 991

F. On or about November 25, 1935, and pursuant to resolutions of the boards of directors of Bond and Share and each holding defendant, the service contracts between Bond and Share and the holding defendants were cancelled. Since that date, the holding defendants have had their own personnel of officers and employees, substantially all of whom had previously been officers or employees of Bond and Share, but who, on November 25, 1935, ceased to be officers or employees of Bond and Share, and thereafter have been employed and paid solely by the holding defendants whom they serve. Exhibit 44 is a table showing the personnel employed by American Company subsequent to November 25, 1935, which is typical of the personnel employed by National Company and Electric Company for this period. 992

G. Exhibit 43 contains tables showing the affiliations of the officers of each of the holding defendants during the year 1934 and during the period subsequent to November 25, 1935. 993

H. Exhibit 45 contains copies of certain statements made by officers of Bond and Share, from time to time prior to November 25, 1935, with respect to the then relations of Bond and Share to the holding defendants and their subsidiaries.

ARTICLE XI

994

RELATIONSHIPS BETWEEN HOLDING DEFENDANTS

45. *Relation of Major Holding Defendants to Their Subsidiary Holding Defendants.*

A. Electric Company has owned and now owns voting securities of United Company and Power Company, and National Company owns voting securities of Lehigh Company, as hereinbefore stated. In each of these instances (except Electric Company's ownership of stock of United Com-
995 pany), the amount of stock ownership is in excess of 99%, and Electric Company and National Company have voted such percentage of the stock owned by them at the stockholders' meetings of these other holding defendants.

B. As between such major holding defendants, and their subsidiary holding companies, i. e., as between Electric Company and its subsidiary companies, United Company and Power Company, and as between National Company and its subsidiary company, Lehigh Company, there is and has been
996 a substantial community of personnel, including directors, officers and employees. The boards of directors of these subsidiary holding defendants are made up substantially of individuals who are members of the boards of directors of their respective parent companies, the major holding defendants. The officers of the major holding defendants occupy, generally, identical positions as officers of the subsidiary holding defendants. The subsidiary holding defendants have no separate official or clerical

personnel, but their business is administered by the same official and clerical staff as that of their parent major holding defendants. The corporate records, books of account, funds, bank accounts and disbursements of each of said companies are kept separate and distinct, and are separately handled in their own names and their disbursements, for any purpose, such as expenses, interest, dividends, and all other disbursements are made from their own funds. Common expenses of operation of the major holding defendants and their subsidiary holding defendants, such as salaries of officers (except in the case of Lehigh Company and National Company which pay their common officers and employees directly), rent, clerical and office expense, are apportioned on a gross earnings basis. 997 998

46. *Relation of Major Holding Defendants to Each Other.*

A. Since November 25, 1935, no director, officer or employee of a major holding defendant or its subsidiary holding defendants has been a director, officer or employee of any other major holding defendant or its subsidiaries. 999

B. Prior to November 25, 1935, certain individuals were directors of Bond and Share and one or more major holding defendant. Also, as a result of the common form of service contract with Bond and Share, the same persons were in many instances officers of the various major holding defendants and of Bond and Share.

C. None of the holding defendants or their subsidiaries owns securities of any other holding defendant or its subsidiaries outside of its own system. Since 1931 no major holding defendant or subsidiary thereof has loaned funds to any company included in the holding company system of another major holding defendant.

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ARTICLE XII

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RELATIONS OF BOND AND SHARE AND HOLDING DEFENDANTS TO THE OPERATING SUBSIDIARY COMPANIES (INCLUDING THE HOLDING-OPERATING DEFENDANTS) AND OF THE HOLDING-OPERATING DEFENDANTS TO THEIR SUBSIDIARIES.

47. *Stock Ownership.*

A. Bond and Share does not have and has not had for many years last past, specifically since a date prior to January 1, 1929, any voting stock ownership in any of the operating subsidiary companies of the holding defendants, or other trusteeship or right to vote the shares thereof, except as its officers or employees might occasionally have been given proxies to vote at particular meetings.

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B. The holding defendants own substantially all of the common stocks of their respective operating subsidiary companies, as set forth in article V of this stipulation.

48. *Service Relations.*

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A. Prior to approximately November 25, 1935, Bond and Share rendered certain supervisory or centralized services to the operating subsidiary companies but since that date, by virtue of the assignment of the service contracts to Ebasco, all such services have been rendered to such companies by Ebasco, as more fully set forth in articles XIII, XIV and XV of this stipulation.

B. The holding defendants do not have and
1006 have not had for many years last past any service contract of any kind with their subsidiary operating companies and do not pay any part of the salary or compensation of any officer or employee of such companies. No officer or director of the holding defendants receives any salary or compensation from any operating subsidiary company. Prior to November 25, 1935, those officers or senior employees of Bond and Share who acted as officers of a holding defendant or of one or more of its serviced subsidiaries, as hereinafter stated, received their salaries
1007 entirely from Bond and Share, which, in turn, was compensated therefor through the service fees paid by such holding company or its subsidiaries under the service contracts. No officer or employee of any holding defendant, in his capacity as such, was or is authorized to sign any contract or make any legally binding commitment for any operating subsidiary company, or to draw any checks or disburse any funds for such company.

49. *Directors and Officers of Holding Defendants.*

1008 A. Prior to November 25, 1935, it was the practice to submit for the approval of the directors of the holding defendants financial programs of their operating subsidiary companies which involved substantial capital expenditures, either in the acquisition of additional properties or construction programs, and no important capital commitments were ordinarily made by the operating subsidiary companies prior to that date without the aproval of the directors of the holding defendants. No such ap-

provals have been required or given since November 25, 1935. 1009

B. The president of each holding defendant is a person of long experience in the public utility business and maintains contact with the operating subsidiaries in such holding company system. These presidents are available for consultation with the executive officers of such subsidiaries by letter, telephone and telegraph and by visits to the properties. Neither such presidents nor any other officers of the holding defendants (subsequent to November 25, 1935) perform any acts in the name of or make any legal commitments in behalf of their subsidiaries. 1010

C. There neither are, nor have been since November 25, 1935, any directors or officers of the holding defendants who are at the same time officers or directors of operating subsidiary companies. Prior to approximately November 25, 1935, certain directors and officers of the holding defendants were also directors and officers of some of the operating subsidiary companies. Exhibit 43 contains tables, for the years 1928, 1934 and 1935, showing the common officers, directors or employees of Bond and Share, the holding defendants and their operating subsidiaries, and the composition of the executive committees of these companies. 1011

50. *Operating Organization of Operating Subsidiary Companies.*

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A. Each of the operating subsidiary companies (including such companies as are also holding-operating defendants) of the holding defendants is and has been separately incorporated and, except in a few instances, has its own securities (other than securities owned by its parent holding company) outstanding in the hands of the public, and each such company upon its permanent organization or acquisition as a subsidiary of one of the holding defendants, was staffed by its own operating organization with a president (or vice-president) and general manager as its chief executive officer and with its own operating officers and operating personnel. Exhibit 46 contains charts showing the personnel of three operating companies of varying sizes which may be taken as illustrative of the personnel organization of operating companies. These operating organizations were, very largely, recruited from the personnel of the constituent companies which went into the newly formed operating subsidiary companies or from the company whose securities or properties were acquired as a going concern. Where other men were brought in from the outside, they were usually employed from some other operating public utility company, either a subsidiary company of one of the holding defendants or a non-associate company. It was not the practice to designate or employ an officer or employee of Bond and Share or of any of the holding defendants as an officer or department head of an operating subsidiary company (exclud-

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ing New York officers as hereinafter described), and, in cases in which this occurred, the employment of such persons by Bond and Share or the holding company terminated. 1015

B. The chairman of the board (where there is such an officer) or the president is the chief executive of the operating company. (In earlier years, there were some instances in which an officer or director of Bond and Share was chairman of the board of directors or president of an operating company, in which case the local vice-president and general manager of the operating company was it chief executive officer. No such situation has existed for a number of years last past.) The president and general manager or, in certain cases the vice-president and general manager, as operating executive, has authority to employ and discharge employees subordinate to himself, except such officers and employees as are elected to office by the board of directors pursuant to the by-laws. Salaries and wages of the subsidiary operating company personnel in the territory served by it are paid by the operating company and not by a holding defendant or by Bond and Share. This operating organization discharges locally the functions of rendering electric or other utility service or business, and maintains and operates its properties to this end. Tariffs, schedules or other charges for service (after they have been determined in the manner described in article XIII) are issued in the name of the operating company by the general manager, or under his authority by his subordinates, and are filed with the appropriate regulatory authority, and all con- 1016 1017

tracts for service, purchases of materials and sup-
1018 plies, and other contracts of any kind are executed in the name of the operating company by its appropriate officer, except that prior to November 25, 1935, officers of operating companies who were also officers of Bond and Share signed contracts in financial matters as described in article XV, and except that certain purchase orders are negotiated and signed by Ebasco in New York in the manner described in article XIII.

C. Each operating company deposits its funds, in the first instance, in local banks in the territory
1019 served, and pays its operating expenses on checks signed by its own local officers. These companies, however, transmit to banks in New York for deposit to their own credit and for investment or disbursement such surplus funds as are available for payment of interest, dividends and other New York obligations or for temporary investment. The method of handling these funds is described in article XIII.

D. Negotiations with respect to franchises or other state or municipal permits for the trans-
1020 action of business and construction of property, all negotiations with Public Service Commissions or other local authorities with respect to rates for service and rules and regulations governing service are conducted by the company's own officers with such assistance from members of the staff of Ebasco (formerly of Bond and Share) as is described in article XIII.

E. Supplementing the local or operating organization of the operating company, as above de-

scribed, Bond and Share, prior to November 25, 1935, furnished the operating companies with certain officers in New York for duties to be performed there under the service contract, as described in article XIV of this stipulation. 1021

F. Shortly prior to November 25, 1935, all officers, directors or employees of Bond and Share who were officers or directors of operating subsidiary companies resigned their positions with such companies. Since that time the only members of the Ebasco staff who have authority to make a legally binding commitment for operating companies are individuals who are designated by resolutions of the boards of directors of such companies as "Authorized Agents" for the signature of checks drawn on New York funds, except as Ebasco or Phoenix may act as purchasing agent for an operating company under the service contracts described in article XIII of this stipulation. 1022

51. *Initial Organization of Operating Companies.*

A. Upon the initial organization of subsidiary operating companies, the organization procedure was under the direction of Bond and Share, and all of the organization plans, proposals and documents were prepared by Bond and Share subject, in those cases where the properties or securities were being acquired for a holding company, to the approval of the board of directors of such holding company. The directors elected immediately following the organization of the companies 1023

1024 were persons in New York, selected either from the staff of Bond and Share, the directors of the holding defendant, or members or employees of the law firm performing legal services in connection with the organization of the company. Matters relating to the plan of organization, charter, corporate structure, and all details of preliminary organization, were thus attended to in New York under the direction of Bond and Share.

1025 B. After the organization of the new company was completed, a permanent board of directors was set up, consisting of some citizens of the territory served, one or more of the principal officers of the operating company, and usually, until shortly prior to November 25, 1935, one or more of the officers or senior employees of Bond and Share.

52. *Roster of Officers and Directors of Operating Companies.*

1026 Tables showing the officers and directors of the principal operating companies, with their relationships, if any, to Bond and Share, as they existed in 1928, 1934, and since November 25, 1935, is set forth in Exhibit 43. Exhibit 47 is a table summarizing the stock holdings of record of the directors of 23 operating companies in such companies, their respective parent holding companies and Bond and Share.

Stipulation of Facts

53. *Relations of Holding-Operating Defendants to Their Subsidiaries.* 1027

A. The respective holding defendants embrace within their systems the following operating companies which are also holding companies and are designated herein as "holding-operating defendants":

American Company: Nebraska Power Company, Pacific Power & Light Company and The Washington Water Power Company. (The Montana Power Company, a New Jersey corporation, specified in the cross-bill as a holding-operating defendant, has ceased to be a holding company by reason of its acquisition of all the properties of Idaho Transmission Company as of April 30, 1936); 1028

Electric Company: Utah Power & Light Company, United Gas Public Service Company and Houston Gulf Gas Company. (Idaho Power Company, a Maine corporation, specified in the cross-bill as a holding-operating defendant, has ceased to be a holding company by reason of its acquisition of all the properties of Nevada Power Company as of May 31, 1936); 1029

National Company: Pennsylvania Power & Light Company.

The following paragraphs of this section describe these holding-operating defendants and their subsidiaries solely with reference to the interrelations between the holding-operating defendants and such subsidiaries.

B. Nebraska Power Company, a Maine corpora-
1030 tion operating as an electric utility in Nebraska, is a holding company owning substantially all the voting securities of Citizens Power & Light Company, a New Jersey corporation which conducts an electric utility business in and adjacent to Council Bluffs, Iowa, including the maintenance of a distribution line which extends across the Iowa-Nebraska line approximately seven hundred feet to the generating station of the Nebraska Power Company.

Citizens Company was separately incorporated
1031 solely to segregate the Iowa business from the Nebraska business. It maintains a complete set of corporate records, separate books of account, separate funds and bank accounts, pays the Nebraska Company for power purchased, and has a separate local operating staff, and since February 26, 1936, has had a separate and distinct complement of directors and general officers. Prior to that date, the principal executive, accounting and fiscal officers of Nebraska Power Company held like positions in the Citizens Company, and the President of the Nebraska Company was a director of
1032 both companies. The President of the Nebraska Company still continues to exercise a general supervision over the operations of the Citizens Company but is no longer an officer or employee of the latter company.

C. Pacific Power & Light Company, a Maine corporation operating as an electric utility in Washington and Oregon, is a holding company owning substantially all the voting securities of Inland

Power & Light Company, an Oregon corporation which owns and operates generating stations in Washington and in Oregon, and a transmission line in Washington, and sells energy at its generating stations to Pacific Power & Light Company and to the associate Northwestern Electric Company, and, over said transmission line to a non-associate utility company. 1033

Inland Company was originally incorporated as a direct subsidiary of American Company, temporarily to hold title to properties in Washington, Idaho and Oregon for the account of American Company or its subsidiaries, and which properties were subsequently conveyed to one or another of the American Company's subsidiaries. During this period, 1923-1930, it had acquired two small hydro-electric plants in Oregon which were under license, or required to be licensed, by the Federal Power Commission under the Federal Power Act, and also constructed, under similar license from that Commission, the Ariel hydro-electric project in Washington, and its corporate existence was continued to enable it separately to operate and account for the operation of these power projects, in accordance with the terms of the Federal Power Act. 1034 1035

In 1930 the stock of the Inland Company was acquired by Pacific Power & Light Company. The Inland Company has maintained a distinct set of corporate records and books of account and its funds have been kept distinct from its parent company. Generally its operations have been supervised by the official staff of Pacific Power & Light Company and generally it has had officers and directors in common with that company. Since February 26,

1936, it has had a complement of directors, officers
1036 and operating personnel distinct from its parent or any associate company, but since its primary operating function is the sale of electric power and energy to its parent and associate company, it has in fact operated as an auxiliary to those companies.

D. The Washington Water Power Company, a Washington corporation operating as an electric public utility in Washington and Idaho, is a holding company owning substantially all the voting securities of Chelan Electric
1037 Company, likewise a Washington corporation, which owns hydro-electric generating stations in Washington and in Idaho, constructed under license from the Federal Power Commission as Federal Power projects. It is separately incorporated and its corporate existence has been maintained to enable it to hold title to, and account for the operations of, these projects in accordance with the terms of the Federal Power Act. All the electric energy generated by the Chelan Company is delivered at its stations to The Washington Water
1038 Power Company. The Chelan Company maintains separate books of accounts and corporate records, but its directors and principal officers are directors or officers of The Washington Water Power Company, and it is operated as an auxiliary to that company.

E. Utah Power & Light Company, a Maine corporation operating as an electric utility in Utah, Idaho and Wyoming, is also a holding company owning substantially all the voting securities of

Utah Light and Traction Company, a Utah corporation, which owns certain electric utility facilities leased to Utah Power & Light Company and which owns and operates a transportation system in Salt Lake City and vicinity; The Western Colorado Power Company, a Colorado corporation which conducts an electric utility business wholly in Colorado, and Bountiful Light and Power Company, a Utah corporation which conducts an electric utility business in and near Bountiful, Utah. 1039

Utah Light and Traction Company operates exclusively as a transportation company in and about Salt Lake City, Utah, but owns certain power plants and distribution systems which it has leased to Utah Power & Light Company. Utah Light and Traction Company operates its transportation business separate and distinct from Utah Power & Light Company, with its own operating staff and personnel, but the general executive, accounting and fiscal officers of the Utah Power & Light Company occupy like positions with Utah Light and Traction Company. The two companies also have certain common directors, but Utah Light and Traction Company maintains its own corporate records, books of account and custody of its funds, receives lease rental for its power plants and distribution systems leased to Utah Power & Light Company and pays Utah Power & Light Company for power furnished for use in its transportation operations. It has its own bonds outstanding in the hands of the public on which it pays interest and sinking fund charges. 1040 1041

The Western Colorado Power Company operates exclusively in Colorado, in which state Utah Power

& Light Company conducts no operations. It has
1042 a separate operating organization headed by its own general manager and has separate local accounting and fiscal officers, maintains its own corporate records, books of account, funds, operating staff and payroll. The President, Secretary and Treasurer of Utah Power & Light Company hold similar offices with The Western Colorado Power Company and maintain general supervision of its administration, accounting and fiscal operations. The Western Colorado Power Company has no securities outstanding in the hands of the public, all its bonds being pledged as col-
1043 lateral under Utah Power & Light Company's first mortgage, and all its debts on open account being owed Utah Power & Light Company. Its board of directors is composed principally of officers of Utah Power & Light Company.

Bountiful Light and Power Company is a small local company which conducts an electric utility business in and near Bountiful, a small community in Utah. It purchases all its power requirements from Utah Power & Light Company and is operated virtually as a local branch or department of that
1044 company, its corporate existence being separately preserved because of local problems. Its officers and directors are officers and employees of Utah Power & Light Company.

F. United Gas Public Service Company, a Delaware corporation carrying on the business of producing, purchasing, transporting, distributing and selling natural gas in a territory which includes portions of the States of Texas, Louisiana,

Mississippi, Alabama and Florida, is also a holding company owning all or substantially 1045
all of the voting securities of Southern Gas Utilities, Inc., a Delaware corporation which owns and operates certain natural gas production, transmission and distribution properties in Texas; Northern Texas Utilities Company, a Delaware corporation which owns and operates certain natural gas production, transportation and distribution properties, all in Texas except for one pipe line which crosses a corner of Oklahoma; Southern Gas & Fuel Company, a Florida corporation which owns and operates certain natural gas transportation properties in Louisiana, and Houston Gulf 1046
Gas Company, a Delaware corporation, which owns and operates certain natural gas production, transportation and distribution properties in Texas. The separate corporate existence of these three subsidiaries have been required to be maintained because of problems arising out of provisions of indentures under which senior securities were issued.

Southern Gas Utilities, Inc., Northern Texas Utilities Company and Houston Gulf Gas Company respectively maintain and have maintained distinct sets of corporate records, books of account, custody 1047
of funds, etc., but their directors and principal officers (except for the president of the Houston Gulf Gas Company) are directors or officers of United Gas Public Service Company and their properties are operated as component parts of the United Gas Public Service Company System.

G. Houston Gulf Gas Company itself is also a holding company owning substantially all of the outstanding voting securities of Houston Gas and

Fuel Company, a Texas corporatoin which owns
1048 and operates natural gas distribution properties in Houston, Texas. Although the general executive, accounting and fiscal officers of Houston Gulf Gas Company and of United Gas Public Service Company occupy like positions with Houston Gas and Fuel Company, (except that the president of the two Houston companies is not an officer of United Gas Public Service Company), and the three companies have common directors, the latter company maintains separate corporate records, books of account, and custody of its funds, purchases natural gas from Houston Gulf Gas Company, and carries
1049 on a distinct distribution operation.

H. Pennsylvania Power & Light Company, a Pennsylvania corporation operating as an electric and gas utility in Pennsylvania, is also a holding company owning substantially all of the outstanding voting securities of Lehighton Electric Light and Power Company, a Pennsylvania corporation which operates an electric distribution system in a small Pennsylvania community. Pennsylvania Power & Light Company also owns (a) 50% of the capital stock of Stanton
1050 Operating Company, a Pennsylvania corporation which is employed by Pennsylvania Power & Light Company and The Scranton Electric Company to furnish labor and materials required in the operation of an electric generating plant near Pittston, Pennsylvania, and (b) approximately 27% (directly or indirectly) of the common stock of Conestoga Transmission Company, a Pennsylvania corporation which owns a transmission line located solely in the State of Pennsylvania which is held

and operated by Pennsylvania Power & Light Company under the provisions of a 999-year lease. 1051

Lehighton Electric Light and Power Company has its own corporate records and books of account, and maintains custody of its own funds, but its general executive, accounting and fiscal officers occupy like positions with Pennsylvania Power & Light Company and the two companies have directors in common. The properties of the former are operated as a part of the latter company's system. The separate corporate existence of the Lehighton Company is being maintained largely because of local problems.

Stanton Operating Company is maintained as a matter of convenience for the operation of the Pittston generating station owned jointly by Pennsylvania Power & Light Company and The Scranton Electric Company. 1052

Conestoga Transmission Company is a distinct corporation, approximately 73 % of whose capital stock is owned by the public. Its officers and directors are also officers or directors of Pennsylvania Power & Light Company, but it has always maintained separate corporate records, books of account and the custody of its own funds. 1053

ARTICLE XIII

1054

EBASCO SERVICES INCORPORATED

54. *Rendition of Services by Bond and Share Prior to November 25, 1935.*

A. For many years prior to November 25, 1935, Bond and Share rendered engineering, financial, accounting, and other services to the holding companies and operating companies included in the American Company System, Electric Company System and National Company System, pursuant to the terms of written contracts (herein referred to as "service contracts").

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B. These services came to be performed as a result of an historical development which commenced in the early years of Bond and Share and involved from time to time varying forms of contracts, sometimes with holding companies and more frequently with operating companies, until they culminated in the service arrangements described in this article. A description of the origin and development of Bond and Share's service functions, with references to exhibits containing typical forms of contracts used from time to time throughout that history, is contained in article XIV, *infra*.

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55. *Incorporation of Ebasco Services Incorporated.*

On or about November 22, 1935, and pursuant to authority from the Board of Directors of Bond and Share, the officers of Bond and Share caused Ebasco Services Incorporated (herein referred to as "Ebas-

co") to be incorporated under the laws of the State of New York for the purpose and with the intention of transferring to said corporation the service organization and service business theretofore maintained by Bond and Share for operating utility companies. Ebasco was incorporated with an authorized capital of $2,600,000 divided into twenty-six thousand shares of capital stock with a par value of $100 each. All of the authorized capital stock of Ebasco was subscribed and paid for and is now held by Bond and Share. Exhibit 48 is a copy of the minutes of the meeting of the Board of Directors of Bond and Share held November 13, 1935, authorizing the incorporation of Ebasco. 1057 1058

56. *Cancellation of Service Contracts with Holding Defendants.*

A. The service contracts previously existing between Bond and Share and the holding defendants mentioned in Section 54 were cancelled on or about November 25, 1935, and were not assigned to Ebasco, and since said date Bond and Share has not rendered and Ebasco has never rendered any services to these holding companies. The cancellation of these service contracts was authorized by the respective boards of directors of the holding companies, but without previous notification to, or action by, the stockholders thereof. Their annual reports for 1935 contained a notification to their stockholders of such cancellation. 1059

B. No action was taken by the stockholders of Bond and Share in connection with the organization of Ebasco and the assignment of the securities and

contracts herein described to it. The annual report
1060 of Bond and Share for the calendar year 1935, dated January 20, 1936, and transmitted to the stockholders of Bond and Share on or about that date, contains the following statement with respect to the organization of Ebasco and the assignment of the service contracts to it:

> "In the fall of 1935 the service organization and business of your company, by which advisory and technical services have been rendered to client public utility operating companies,
1061 was segregated from the other activities of your Company and transferred to a separate subsidiary corporation of which your Company owns all the stock, incorporated under the laws of New York, and named 'Ebasco Services Incorporated'. The principal reason for this action was to meet the growing demand by state regulatory authorities, in some cases expressed in state legislation, that companies rendering such services to public utilites should qualify to do business in the states in which the client public utility companies operate."

1062 57. *Transfer of Stock in Other Corporations to Ebasco.*

Upon the organization of Ebasco, Bond and Share transferred to it all of the issued and outstanding capital stock theretofore owned by it in the following corporations:

A. Phoenix Engineering Corporation, a Delaware corporation (hereinafter referred to as "Phoenix") which renders certain engineering and construction services to operating utility companies in the Bond and Share System, as hereinafter more fully described; 1063

B. Two Rector Street Corporation, a New York corporation which holds title to the building located at 2 Rector Street, New York City, New York.

The separate corporate existence of Phoenix was preserved instead of merging it with Ebasco by reason of the provisions of Section 1461 of the New York Education Law which provides that no corporation may be chartered after April 15, 1935 for the purpose of rendering engineering services. The stock of Two Rector Street Corporation was not retained by Bond and Share, but was transferred to Ebasco for the reason that Ebasco now occupies the major portion of the building located at 2 Rector Street, New York City. All of the directors of Phoenix and Two Rector Street Corporation are officers or employees of those companies or of Ebasco. 1064 1065

58. *Transfer of Service and Other Contracts to Ebasco.*

A. Upon the organization of Ebasco, Bond and Share assigned to it (a) all of the existing service contracts between Bond and Share and operating public utility companies (which contracts are more fully described in article XIV; a speci-

men copy is attached as Exhibit 62); (b)
1066 all contracts between Bond and Share and other corporations with respect to the purchase of commodities, discount arrangements and installation and repair work for or on behalf of the operating utility companies with which Bond and Share had entered into service contracts; and (c) certain miscellaneous contracts between Bond and Share and other corporations, useful in connection with the performance of such service contracts. Exhibit 49 is a copy of the minutes of meetings of the Board of Directors of Bond and Share and Ebasco setting forth such assignments and authoriz-
1067 ing their execution.

B. The incorporation of Ebasco as a service organization was discussed and tentatively decided upon at a meeting held in New York in October, 1935, called by the President of Bond and Share, at which were present the chief executives of Bond and Share and the chief executives of substantially all of the serviced operating companies. Thereafter, and prior to the date of incorporation of Ebasco, the executives of the serviced operating companies were notified informally by Bond and Share of
1068 its final decision to organize Ebasco and to assign the service contracts to it. On the date of such assignment, the President of Bond and Share transmitted a letter to each such operating company advising it of the assignment of the service contracts to Ebasco. Exhibit 50 is a copy of the letter transmitted to the president and general manager of Florida Power & Light Company, which letter is substantially identical with the letters trans-

mitted to the other companies. The operating companies, by their respectiye executives, acknowledged the receipt of such letter in the space provided therefor and continued to accept and utilize the services covered by such contracts from Ebasco. No formal action was taken by the Boards of Directors of the operating companies consenting to such assignments. 1069

59. *Board of Directors.*

The Board of Directors of Ebasco consists of nine members, two of whom are also directors of Bond and Share and the remainder of whom are officers or employees of Ebasco who, prior to the incorporation of Ebasco, were officers or employees of Bond and Share. Exhibit 51 contains a list of the directors of Ebasco showing (a) those directors who are also directors of Bond and Share, and (b) the offices or positions in Bond and Share formerly held by present directors of Ebasco. 1070

60. *Officers.*

All of the officers of Ebasco either are now also officers of Bond and Share or were officers or employees of Bond and Share immediately prior to their election as officers of Ebasco. Exhibit 51 contains a list of the officers of Ebasco showing (a) the offices in Bond and Share now held by such of said officers as are also officers in Ebasco, and (b) the offices or positions in Bond and Share formerly held by present officers of Ebasco. Those officers of Ebasco who are also officers of Bond and Share receive salaries at a rate equal to the salaries paid 1071

1072 them by Bond and Share as of November, 1935, now paid in part from Bond and Share and in part from Ebasco. Those officers and employees of Ebasco who are no longer officers or employees of Bond and Share receive generally the same salaries as they formerly received from Bond and Share.

61. *Qualification of Ebasco as a Foreign Corporation.*

Subsequent to the organization of Ebasco, it has qualified to do business as a foreign corporation in each state in which operating utility companies
1073 to which it renders services pursuant to the service contracts conduct major operations.

62. *Performance of Services by Ebasco.*

Since the date of the assignment of the service contracts to Ebasco, Ebasco has performed for the operating utility companies who are parties thereto services thereunder as described in this article.

63. *Separation of Business between Ebasco and Bond and Share.*

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Upon its organization and commencement of business, Ebasco, in its own name, leased from Two Rector Street Corporation approximately nine floors of the bulding at 2 Rector Street and concentrated its entire operating personnel on those floors, except for such officers as are common to Bond and Share and Ebasco, who continued to maintain their offices with Bond and Share, which leased from Two Rector Street Corporation the twenty-second floor of 2 Rector Street.

64. *Transfer of Service Personnel to Ebasco.*

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Upon the organization of Ebasco, Bond and Share transferred to it substantially all of the personnel theretofore employed by Bond and Share in its operating company servicing operations, and such personnel is now employed and paid by Ebasco. Exhibit 52 is a statement of the personnel of Bond and Share subsequent to such transfer.

The service personnel transferred to Ebasco (other than common officers) consisted of 338 persons who were placed exclusively on the Ebasco payroll, aggregating approximately $120,000 per month. Exhibit 53 is a statement of the personnel of Ebasco as of May 1, 1936. Ebasco opened a separate set of corporate records and books and separate bank accounts in New York City banks with separately authorized signing officers for the withdrawal of funds and other bank transactions. The signing officers include individuals who are also authorized by Bond and Share to sign checks for it.

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The chief administrative officer of Ebasco for the performance of the services herein described is a vice-president (also a director), whose function it is to administer and correlate the work of its personnel and departments. He is not an officer or employee of Bond and Share, but until the incorporation of Ebasco was administrative assistant to the vice-president of Bond and Share in charge of its operating division. He maintains contact with, and reports to, the President of Ebasco (who is also the President of Bond and Share).

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65. *Preliminary Statements with Respect to Services.*

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A. The following paragraphs of this stipulation describe the services now rendered by Ebasco to the electric utility, gas utility and other operating subsidiaries of American Company, Electric Company and National Company which have contracted to receive such services and are herein referred to as "serviced companies". Ebasco has rendered no services to the companies in the American Gas System, and the term "serviced companies" does not include American Gas subsidiaries.

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B. In various sections of the stipulation descriptive of the services rendered, reference is made to requests of serviced companies and recommendations of Ebasco or its personnel. The dealings between Ebasco and the serviced companies are conducted on an informal basis. Where requests are made by the serviced companies for particular services, the initial suggestions leading to the request may originate either with an executive or employee of the serviced company, or with one of the members of the Ebasco service organization.

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The use of the word "request" in the following sections does not negative that the suggestion may have originated with an Ebasco representative. Where "recommendations" are made by Ebasco in the matters hereinafter specified, they are generally made after full discussion of the problems involved with the executives, engineers, or other employees of the serviced company. These recommendations are normally and usually followed to the extent practicable under local con-

ditions. On the facts stated, plaintiff contends, and defendants deny, that, by means of the services herein described in connection with the other facts appearing in this record, Bond and Share controls the public utility companies to which such services are rendered and their parent holding companies. The issue of control *vel non* is not stipulated but is submitted to the court on the facts stated for finding and determination so far as it may be deemed material. By agreeing (1) to the use of the words or phrases "advises", "assists", "makes recommendations to", or "upon request of a serviced company" in describing the services now rendered by Ebasco, or those formerly rendered by Bond and Share, and (2) to the descriptions of the present personnel and the authority of officers of both holding and operating companies, plaintiff and cross-defendants expressly reserve the contention (which defendants dispute) that, on the facts stated as a whole, the court may properly find that these words, phrases and descriptions are descriptive in form only, and that they imply control or direction in substance. 1081 1082

C. The principal offices and properties of the serviced companies are located outside of the State of New York. Ebasco's office is at 2 Rector Street, New York City, and it maintains no personnel other than statutory agents in the various statutory or qualification offices which it has established in the various states in which it is qualified. All communications between Ebasco and the serviced companies, by means of the mails, the telephone or the telegraph, and all travel by officers and em- 1083

ployees of Ebasco and of the serviced companies
1084 between the offices of Ebasco and the properties of such serviced companies require communication or travel across state lines.

D. Exhibit 54 contains charts of the service organization of Ebasco.

66. *General Description of Services Rendered to the Serviced Operating Companies.*

A. Ebasco renders systematic and continuous expert, specialized and technical service, advice and
1085 assistance to the serviced operating companies, upon every phase of the public utility business. For the purpose of rendering this service, the serviced operating companies are divided into the following regional groups: North West Group, South West Group, South East Group, North Central Group and Natural Gas Group. The services rendered to the companies included in each of these groups are under the general supervision of a senior operating sponsor who is an experienced public utility executive, thoroughly conversant with the problems of operating public utilities. The operat-
1086 ing sponsors devote their entire time to advising and assisting the operating companies to which they are assigned and to co-ordinating the services of Ebasco with the problems of the operating companies, in order to accomplish a solution of such problems. Approximately one-half of their time is spent in the field visiting the properties of the operating companies. They have no authority legally to bind operating companies in any transaction. Each operating sponsor is assisted by the fol-

lowing sponsor specialists: accounting sponsor, engineering sponsor, budget sponsor, rate sponsor and sales sponsor, each of whom is an expert in his field, devotes substantially his entire time to the affairs of the operating companies to which he is assigned, spends a substantial portion of his time in the field visiting the properties of such companies, and acts as a liaison between such companies and the specialized departments of the Ebasco service organization. 1087

Ebasco maintains the following specialized departments, each of which is staffed by a corps of experts (including the sponsor specialists) in their respective fields: Accounting Department, Engineering Department (including Purchasing Department), General Department (including the Budget, Insurance, Statistical, and Tax Departments), Rate Department, Sales Department, Secretarial Department, Treasury Department and Corporate Department. The services of each of these departments and of the executives of Ebasco are at all times available to the serviced companies. Major problems of serviced companies which come to the attention of Ebasco are considered by the executives and specialists of the entire Ebasco organization. 1088 1089

B. The operating sponsors and the departmental sponsor specialists keep fully and continuously informed upon the detailed activities of each of the serviced companies to which they are assigned, by means of frequent visits to the properties of such companies, active correspondence and telephonic and telegraphic communications with the officers and department heads of such companies, and

through the detailed periodic reports and budgets
1090 which are prepared by the serviced companies and copies of which are transmitted to Ebasco. Through the operating sponsor, the services of Ebasco are co-ordinated with the requirements of the serviced operating companies. In general, reports and routine correspondence between the serviced company and Ebasco and important correspondence with others are seen by the operating sponsor, and he receives copies of reports and correspondence with other persons or departments of Ebasco pertaining to the particular companies to which he is assigned. He maintains contact between
1091 the serviced company and the departments of Ebasco for the performance of any or all services which may be required; follows closely the affairs of the serviced company; brings problems of importance to the attention of other executives of Ebasco; transmits to the executives of the serviced company advice, suggestions or criticisms as to its operations, or proposed solutions of problems.

Assisted by the departmental sponsor specialists, the operating sponsors study continuously the problems of the serviced companies to which they are
1092 assigned. Whenever the problems of a serviced company so require, on request or approval in advance by such company, the operating sponsors arrange to have sent to the properties of such serviced company a member or members of the Ebasco staff to make detailed investigations and studies of special problems, prepare analyses, reports and recommendations which, generally after being transmitted to Ebasco in New York for further study, and for co-

ordination with information obtained from other serviced companies and from non-affiliated companies or sources, are delivered to the serviced company for which prepared. Conferences between members of the Ebasco staff and officers or employees of the serviced companies are held from time to time in New York and frequent conferences between the members of the Ebasco staff and the officers and employees of the serviced companies are held at the offices of such companies. By means of such conferences and by correspondence and telephonic and telegraphic communication between Ebasco and the serviced operating companies, Ebasco advises upon and actively collaborates in the formulation of major plans and the solution of major problems of the serviced operating companies. 1093 1094

C. Ebasco co-operates with the operating companies in building up and maintaining their operating personnel. Many of the executive officers, sponsors and other employees of Ebasco and Bond and Share received a substantial part of their experience in the employ of serviced companies. Ebasco gives special attention to developing men for positions with the serviced companies and with the consent of all parties interested, advises and assists in arranging the transfer from one serviced company to another or the employment from other utilities of men who, in the opinion of members of the Ebasco staff, are qualified for the position in question. Upon the completion of a construction job undertaken by Phoenix, the employees of Phoenix engaged upon such job occasionally have become members of the permanent operating staff 1095

of the serviced company for which a particular pro-
1096 ject was constructed.

D. The duties performed and services rendered by each of the departments of Ebasco are more fully described in the following sections of this stipulation.

67. *Accounting Services.*

A. The accounting department of Ebasco renders services to the serviced companies in connection with their accounting problems, as herein-
1097 after set forth. It designs accounting procedures, systems and reports and prepares accounting and report forms in collaboration with and for the use of individual serviced companies to meet their special requirements. Within the limits permitted by state or municipal regulatory authorities, it prepares and from time to time revises uniform classifications of accounts, accounting procedures, and report forms and recommends their adoption by the serviced companies. These classifications, procedures and forms have been generally adopted by the serviced companies so far as local regula-
1098 tions and conditions permitted. (See Exhibits 68 to 81, referred to in section 84.) The accounting department assists the serviced companies in installing and checking accounting systems. It prepares, or assists in the preparation of, statements for stockholders, stock exchanges, governmental authorities and others. When the accounting department prepares such statements, they are sent to the serviced company for review and execution by an officer, if required, before use.

It checks and studies the reports and statements received from serviced companies for the purpose 1099
of bringing significant points to the attention of the serviced companies, operating sponsors and other members of the Ebasco organization interested in the serviced company under consideration. It assists the budget department in budget analyses and revisions. It conducts general accounting research, develops new accounting methods and devises new accounting forms. It reviews and studies accounting requirements of regulatory commissions and related problems. It prepares vouchers and checks for disbursement from the New York bank 1100
accounts of the serviced companies and reconciles New York bank balances. It prepares analyses of the accounts of serviced companies and makes studies of comparative performance and trends which are communicated to the serviced companies. The members of the staff of the accounting department make frequent visits to the properties of the serviced companies for consultation and assistance as to accounting matters, and to make special studies of accounting problems for such serviced companies.

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B. The accounting department prepares periodic and special bulletins and reports with respect to detailed accounting problems for general distribution among the serviced companies, and transmits them to such companies through the mails.

68. *General Engineering Services.*

A. Engineering services rendered to each of the serviced companies cover the entire range of en-

gineering advice and assistance required by public
1102 utilities in the operation, maintenance, extension and development of their systems, and in the interconnection of their systems with other systems. A substantial portion of the engineers' time is spent visiting properties of serviced companies. They thoroughly familiarize themselves with major engineering problems of operating companies, and give continuous and systematic advice and recommendations with respect to current problems as they arise. Studies and investigations are carried on both in the field and in New York with respect to serviced properties and the results of such
1103 studies are made available to serviced companies. Load conditions and requirements are analyzed. Future developments, extensions, replacements, improvements in operating systems and interconnections with other companies are studied and recommendations based on such studies are submitted to the serviced companies. The engineering department offers consultation, advice and assistance on such matters as: design of structures and plants; preparation of construction budgets; investigation of operating costs; plant and line operating and
1104 maintenance methods and economies; choice and use of steam fuels; operating personnel and organization; new uses for electricity and gas; handling of utilization apparatus; rate cases, damage suits, valuations and estimates. The engineers obtain and make available to serviced companies, information concerning customers' industrial plants such as oil refineries, paper and textile factories, cement mills, packing houses, etc. They analyze commercial and industrial load-building

problems, acting in co-operation with the sales department, and assist in obtaining and maintaining industrial and commercial load. 1105

B. The engineering department prepares, collects and distributes to all serviced companies standard specifications for equipment, materials and supplies, which specifications have been generally adopted by such companies. (For index of specifications formerly promulgated by Bond and Share and currently approved by Ebasco, see Exhibit 83, referred to in section 85A.) The engineering department makes analyses of production costs of generating plants of the serviced companies and of non-affiliated companies, and prepares and distributes monthly to the serviced companies tabular reports of the results of such studies. Contact is maintained with representatives of utilities, manufacturers and others, in the United States and abroad and the information gained is used for the benefit of the serviced companies. The engineering department actively participates in the meetings and other activities of over fifty engineering society committees and groups, and conducts extensive investigations and research into matters relating to the technical operations of the serviced companies, and reports to them the results of these activities; it assists the serviced companies by participating in the formulation of national codes and standards. The engineering department from time to time arranges and conducts engineering conferences in New York City, attended by engineers from the serviced companies, at which important engineering problems of the serviced companies are dis- 1106 1107

cussed, and prepares and distributes to the ser-
1108 viced companies the results of such discussions.

C. The engineering department prepares reports, memoranda and engineering letters upon technical and engineering phases of the operation of utility properties, for general distribution among the serviced companies and transmits them to such companies through the mails. (For an index of letters and reports, see Exhibit 84 referred to in section 85A.)

69. *Purchasing Services.*

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A. The purchasing department negotiates volume purchase contracts with manufacturers or jobbers of certain equipment, materials and supplies required by the serviced companies. Such contracts permit the serviced companies named therein to purchase specified equipment, materials and supplies from the manufacturer or jobber, and to receive the discounts therein provided for. The serviced companies are kept advised as to the terms of the purchase contracts and the advantages they
1110 offer to the serviced companies. These contracts are of two general types:

(1) Certain of the volume purchase contracts allow discounts to the serviced companies based upon the aggregate value of the purchases made thereunder by all serviced companies during an annual period. At the close of each annual period, checks aggregating the amount of the discounts provided for in the contracts are made out by the manu-

facturer or jobber, payable to the several serviced companies, in amounts proportionate to their respective purchases. These checks are thereupon transmitted to Ebasco, which verifies the accuracy thereof and transmits them to the payee. Exhibit 85 (referred to in section 86) contains copies of contracts which are typical of the volume purchase contracts providing for annual discounts, executed by Ebasco; 1111

(2) Other volume purchase contracts provide for an allowance to each serviced company of a specified discount upon each purchase made by it, at the time of such purchase. The discounts allowed in such contracts are computed upon the basis of the estimated aggregate purchases to be made by all of the serviced companies during the succeeding annual contract period. Exhibit 85 (referred to in section 86) contains copies of contacts which are typical of volume purchase contracts allowing discounts to the serviced companies at the time of purchase. 1112

B. In addition to the volume purchase contracts hereinabove described, the purchasing department negotiates special contracts for the purchase of equipment, materials and supplies (not covered by volume purchase contracts) required by the serviced companies. Such special contracts are executed by Ebasco as purchasing agent for the serviced company. Exhibit 85 (referred to in section 86) contains copies of special contracts typical of the form of such contracts. The equipment, 1113

materials and supplies covered by such special con-
1114 tracts are shipped directly by the vendor to the serviced company. Payments for such purchases are made either by a check drawn by such serviced company upon its local funds or by a check drawn in New York upon the New York funds of the serviced company and signed in behalf of the serviced company by an employee of Ebasco authorized so to do by such serviced company.

C. A substantial majority of the equipment, materials and supplies purchased by the serviced companies pursuant to volume purchase contracts
1115 or special sales contracts negotiated by Ebasco are transported across state lines from the factory or place of business of the manufacturer or jobber to the point of their receipt by the serviced company.

D. Upon the request of a serviced company the purchasing department arranges for inspection of factory production on orders placed by it or by the serviced company for large apparatus, either by a Phoenix engineer or by an engineer or in-
1116 spector specially employed. It classifies and routes freight shipments and negotiates freight rates. It consolidates small shipments to include them in carload quantities. It audits freight charges and presents and collects for the account of the serviced company claims for loss, damage or overcharge.

E. The purchasing department is periodically informed by the serviced companies of major items of material and equipment no longer required by

them. It compiles such information and transmits it periodically to the serviced companies, to other utility companies and to dealers in order to facilitate the purchase or exchange of such material and apparatus. A substantial majority of the material and apparatus so purchased or exchanged among the serviced companies is transmitted across state lines. 1117

F. Exhibit 85 (referred to in section 86) contains statements with respect to the volume of purchases under blanket contracts and special contracts negotiated by Bond and Share prior to November 25, 1935 which statements for the year 1934 are typical of the volume of similar purchases currently being made pursuant to contracts negotiated by Ebasco as above stated. 1118

70. *Services Rendered by General Department.*

The General Department of Ebasco consists of the four sub-departments which render the budget, insurance, statistical and tax services hereinafter more fully described.

71. *Budget Services.* 1119

The budget department, assisted by other departments of Ebasco, advises and assists the serviced companies with respect to, and makes available to them, a complete system of budgetary control. The various budget forms, including sales, operating, construction, cash and master budgets, cash control and conservation reports and certain supplemental reports, together with instructions to

be followed in the use of such forms, are a part of
1120 this service. (See Exhibits 71 to 79, described in section 84.) The budget department reviews and analyzes the annual budgets prepared by serviced companies and in collaboration with other departments of Ebasco brings to the attention of the serviced companies inconsistencies and what seem to be inaccurate forecasts or unsound operating or construction programs. It prepares both general and special reports and studies with respect to the preparation and revision of budget forms and forecasts and the theories and practices of budget control and
1121 transmits them (as well as the budget forms above referred to) to the serviced operating companies through the mails. From month to month throughout the year the budget department compares actual results obtained by serviced companies with those estimated in their respective budgets and directs attention to significant differences or to changes in trends observed through such analysis.

72. *Insurance Services.*

A. After consultation and discussion with the serviced companies and after review of their operat-
1122 ing requirements, the insurance department negotiates policies with respect to the following types of risks of the serviced companies: fire, public liability, property damage, compensation, fidelity, forgery, burglary, robbery, riot, strike, civil commotion, group life, group accident and health, turbine, machinery and boiler, automobile, surety bonds, and miscellaneous other types of insurance. Exhibit 54A is a table of policies for those classes of insurance which have been generally and are currently covered

under blanket contracts and of the number of companies which have come under such contracts. 1123
The insurance department makes or assists in making detailed field surveys of physical properties and assists in carrying on negotiations with insurance rating bureaus to secure economical classifications and rates for the serviced companies. It studies and analyzes insurance laws, rules and regulations and advises the serviced companies of changes therein affecting their particular insurance needs. It handles or assists in the handling and adjustment of important claims under insurance policies. It maintains regular contacts with insurance 1124
specialists, actuaries, engineers and organizations having to do with insurance and accident prevention activities. Members of the insurance department participate in meetings of committees of national insurance associations, advise the serviced companies of developments in the insurance business and make frequent trips to the properties of the serviced companies for the purpose of consultation, advice and study as to their insurance needs.

B. The insurance department prepares periodic and special reports dealing with insurance problems 1125
for general distribution among the serviced companies, and transmits them to such companies through the mails.

73. *Statistical Services.*

A. The statistical department prepares statistical and economic studies for the use of the serviced companies; co-operates in the preparation of

annual reports and letters to stockholders of the
1126 serviced companies; revises and edits or assists in revising and editing statements furnished by the serviced companies and published annually in various standard financial manuals, reviews and handbooks; prepares or assists in the preparation of information with respect to the affairs of the serviced companies pursuant to the request of individual investors, bankers, insurance companies and others residing within and without the State of New York whose inquiries come to New York, and transmits such information to them. It maintains a library of financial, engineer-
1127 ing and technical publications and file of statistical data which are available to and used for the serviced companies upon their request and the request of other departments of Ebasco. It prepares or co-operates in the compilation of data about the serviced companies for such Federal bodies as the Bureau of the Census, the Securities and Exchange Commission and the Federal Power Commission, for stock exchanges and for blue sky commissions, etc. It transmits to the serviced companies copies of newspaper
1128 articles and editorials, articles appearing in periodicals, journals and technical publications, copies of government, commission and other special reports, court decisions and other general informational material relating to financial, engineering and other developments of interest to the serviced companies.

Stipulation of Facts

74. *Tax Services.*

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A. The tax department makes periodic computations of Federal income tax liabilities of the serviced companies and, based thereon, makes recommendations to the serviced companies with respect to the adjustment of their reserve and other accounts. The tax department transmits tax questionnaires to the serviced companies annually and based upon the answers to such questionnaires and other information available, prepares all Federal income and capital stock tax returns and the supporting data required incident thereto; reviews and in most cases prepares state tax returns (other 1130
than *ad valorem* property taxes) required to be filed by the serviced companies. Upon the preparation or review of such returns, the tax department transmits them to the officers of the serviced companies for their review and consideration, after which such officers complete, sign and file the final return. It assists in the audit of the returns, preparation and presentation of claims for refund and abatement of taxes and the final determination of the tax liability of the serviced companies. Members of the tax department make field visits to the serviced 1131
companies and assist them in the preparation of data required by the Federal Treasury Department; assist in the preparation of supporting information and data for use before state and local taxing bodies, and assist in the setting up of accounting procedure in connection with taxes.

B. The tax department prepares for general distribution special and periodic reports of new rulings, regulations and decisions of taxing bodies and

of the courts which affect the tax liabilities of the
1132 serviced companies and transmits such reports to the serviced companies through the mails.

75. *Rate Services.*

A. As part of its service the rate department, upon request from serviced companies or on their approval obtained in advance, makes detailed studies and analyses, both in the field and in New York City, of their rate policies and rate structures, including studies and analyses of service characteristics, the needs of various classes of customers, the cost of
1133 supplying the service, and prevailing rates for competing services. These studies are made in consultation and co-operation with the staffs of the serviced companies and with members of the sales department, the accounting department and other departments of Ebasco. Based upon such studies, the rate department designs rate schedules adapted to or required by local conditions and recommends their adoption by serviced companies. Major voluntary changes in rate policy or rate structure are usually submitted by the serviced companies to the rate department of Ebasco for their
1134 analysis, consideration and recommendation before adoption. Generally, changes in rates require the approval of a public service commission, city council or other body having jurisdiction.

B. The rate department keeps extensive files of rates and rate data collected from the serviced companies, from non-affiliated companies, from national associations and committees and from trade and technical journals. Abstracts of these data

are distributed from time to time to the serviced companies. 1135

C. The rate department advises and assists the serviced companies in negotiating large consumer contracts and in negotiating agreements for the interconnection of the systems of serviced companies with each other or with other systems. It is consulted in connection with rate problems of customers of the serviced companies, and assists in the preparation and sometimes in the presentation of material or exhibits for use before various regulatory authorities and the courts. 1136

D. Approximately one-half of the time of the members of the rate department is spent visiting the properties of the serviced companies.

E. The rate department prepares periodic and special studies and reports dealing with rate problems for general distribution among the serviced companies, and transmits them to such companies through the mails.

76. *Sales Services.* 1137

A. The sales department renders continuous commercial and sales services to the serviced companies. It formulates general sales policies and programs which are recommended to the serviced operating companies as designed to stimulate the sale of electric energy and gas and of electric and gas appliances. It transmits to the serviced companies frequent requests for their suggestions as to the type of sales problems and policies it should study, and

as to the type of service it can render to them from
1138 the standpoint of their needs. Based upon such suggestions, upon studies of the various sales plans and practices of the serviced companies, and upon extensive sales data gathered from other sources, the sales department prepares, each fall, a broad sales plan to serve as a fundamental basis for the use of the serviced companies in developing their individual selling programs for the ensuing year. Such broad sales plan is presented to the sales executives of the serviced companies either at a conference held in New York City where such plan is
1139 outlined and discussed or at regional meetings where like discussion is had or by means of personal conferences at the principal office of each serviced company. Each serviced company then proceeds with the preparation of its sales program, usually receiving advice and assistance in such preparation from one or more members of the staff of the sales department. Members of the sales department advise and assist the various serviced companies with their respective sales programs both by communication from New York and by advice and assistance to the serviced company in the field.
1140 The sales department from time to time arranges for, and participates in, regional conferences for the purpose of discussing the sales problems of regional groups of serviced companies. It advises and assists each of the serviced companies in the preparation of its annual sales budget.

B. The sales department confers with manufacturers with respect to prices, discounts and guarantees upon electric and gas appliances. It regularly co-operates in the activities of national trade

associations looking to the broader promotion, public acceptance and sale of electric and gas appli- 1141
ances. It advises the serviced companies with respect to the lay-out and decoration of display windows, sales rooms and offices. It collects and prepares samples of advertising copy, folders, pamphlets, photographs and other promotional material for distribution to the serviced companies. It advises and assists the serviced companies with respect to the negotiation of large consumer contracts and other commercial and sales problems.

C. Approximately 50 % of the time of most of
the experts and specialists employed in the sales 1142
department is spent visiting the properties of the serviced companies.

D. The sales department prepares and distributes to the serviced companies frequent comparative statements and reports showing results of the sales activities of the serviced companies. It observes and from time to time assists in sales experiments in the territories served by individual serviced companies, analyzes the results of such experiments and transmits the results of such an-
alyses to the serviced companies. Members of the 1143
sales department serve on national committees, participate in the preparation of reports of such committees and in some instances distribute copies or abstracts of such reports to the serviced companies. The sales department frequently prepares special letters, studies and sales reports for general distribution among the serviced companies and transmits them to the companies through the mails, acting

generally as a clearing house for sales information
1144 for the serviced companies, particularly with respect to constantly recurring changes in sales markets and methods. For this and other purposes, it maintains regular contacts with trade associations, publications, other utilities, manufacturers and other organizations having to do with sales activities and problems.

77. *Secretarial Services.*

The secretarial department of Ebasco maintains copies of corporate minutes and related records of
1145 the serviced companies. No officer or employee of Ebasco holds any secretarial position with the serviced companies. The department advises and assists the secretarial departments of the serviced companies in matters concerning the forms of corporate procedure and general secretarial activities.

78. *Treasury Services.*

The treasury department maintains the New York cash books of such of the serviced companies as maintain bank accounts in New York City. All
1146 of the larger serviced companies maintain such accounts. The treasury department is advised monthly, by means of the monthly cash situation report, described in section 84 hereof, of the disbursements to be made by each serviced company from its New York bank account, the amount of cash to be transferred from the local account of the serviced operating company to its New York bank account, the amount of cash in such New York bank account required for New York expendi-

ture during the current month, and the amount of cash required to be transferred from the New York 1147
bank account to the field. In general accordance with such cash situation statement, the serviced company remits funds to New York City from time to time by means of checks payable to its own order, which are endorsed for deposit and deposited to its credit by an employee of Ebasco in New York, authorized by the serviced company. The advices contained in the monthly cash situation report may be modified during the month by letter or telegraphic instructions from the serviced company directing the payment of in- 1148
voices in New York or the re-transfer of funds to the field. The treasury department makes disbursements for the account of the serviced company required to be made from its New York bank account. Formal advices as to each such transaction are transmitted to the general offices of the serviced company concerned for its records. The treasury department arranges or assists in arranging for temporary investment of surplus funds of the serviced companies, assists in arranging for temporary loans, arranges for the safekeeping and delivery of securities, including the cutting and 1149
collection of coupons, and makes sinking fund and other payments to mortgage trustees, all when and as requested by serviced companies. It investigates credit risks and supplies credit information.

The treasury department, upon request or approval by a particular serviced company, arranges for the purchase, prior to their redemption date, of bonds called for redemption where such purchases can be made on an advantageous discount basis with the funds of such serviced com-

pany; arranges with paying agents or trustees
1150 for the redemption of bonds or their payment at maturity; mails redemption notices to bondholders; assists in arrangements made with bondholders and trustees for extending bond maturities and assists in effecting exchanges of stocks under plans of corporate recapitalization.

79. *Corporate Services.*

A. The corporate department of Ebasco, in colaboration with other departments of Ebasco: (a) assists in the preparation of papers required by
1151 mortgage trustees in connection with the issuance of bonds, the sale and release of mortgaged property, sinking fund operations, redemption of bonds, release of cash held under mortgages, and other problems arising under mortgages; (b) prepares studies and analyses and advises in connection with changes in corporate and financial structures; (c) advises as to listing of securities, qualifying of securities, acquisition and disposal of properties; and (d) assists and advises in connection with financial programs, including plans for new financing, sources of funds, credits and loans, conferring with bankers, insurance companies and in-
1152 vestors. This department also makes arrangements with trustees, registrars and transfer agents as to matters arising in connection with the securities of the serviced companies. It assists in the preparation of reports for various governmental agencies and advises the serviced companies as to the regulations issued in connection with such reports. It is prepared to advise and assist in the negotiation and preparation of refinancing plans,

including plans for the issuance of bonds and other securities and to represent the serviced company in the conduct of negotiations in connection therewith in New York City as stated in section 90. 1153

B. Ebasco retains a law firm (composed of persons who, prior to November 1935, were law officers or employees of Bond and Share) the members and employees of which consult and advise with local and New York counsel for the serviced companies and with the officers and employees of Ebasco as to the legal problems arising in connection with the services rendered by Ebasco as described in this article. New York counsel employed by the serviced companies for their legal work done in or from New York is usually the same law firm as is generally employed by Bond and Share for legal work for that company. No occasion has arisen in connection with employment of New York counsel for separate legal representation such as would arise in case of a conflict of interest. 1154

80. *Special Engineering and Construction Services of Phoenix Engineering Corporation.*

A. As part of its general services, Ebasco studies the needs of serviced companies for additional plant facilities and major replacements of existing facilities to meet their load requirements, and transmits such studies and recommendations based thereon to the serviced companies. In general practice, such studies and recommendations are so made and transmitted before any important construction or replacement, other than in emergencies, is undertaken by such serviced companies. In addition to 1155

this general service, Ebasco's subsidiary, Phoenix,
1156 from time to time performs certain special engineering and construction services for the serviced companies and receives special compensation therefor as provided in Part II of the service contracts. All such special services are rendered upon requests from the serviced companies for particular engineering or construction projects. These services consist generally of (1) the preparation of designs, plans, specifications, bills of material and cost estimates for plants and facilities for the generation or production, transmission or distribution of electric energy or gas; (2) valuations, ap-
1157 praisals and special investigations, studies and reports; (3) the construction or reconstruction by Phoenix of such plants or facilities; and (4) the supervision by Phoenix of construction or reconstruction work performed by general contractors. Exhibit 54 contains a functional chart of the organization of Phoenix, including a general description of the services performed by it. Many of the serviced companies from time to time receive bids from and make contracts with outside organizations for particular engineering, construction or
1158 appraisal projects or services. It is not the practice of Phoenix, nor was it the practice of its predecessor, Phoenix Utility Company, to submit bids in competition with outside contractors. Where it is determined to do work on force account, and Phoenix has done such work, it has done so without competitive bids being obtained. Where there has been no preliminary determination as between doing work on force account or on a lump sum contract, Phoenix has prepared estimates of cost for

comparison with bids of outside contractors, and the work has been let to Phoenix or to such contractor after such comparison has been made. 1159

B. On request of a serviced company, Phoenix performs in or from its general office in New York, engineering services in connection with construction as follows: (1) collecting and analyzing engineering data and other information and making investigations and other preliminary studies which may be necessary for the formulation of definite plans and designs for the work; (2) preparing engineering plans and specifications, bills of material and estimates of cost for the work and any other engineering requested in connection therewith; (3) inspecting the materials and equipment required for the work and following factory production thereof; (4) making tests of the completed work or portions thereof and instructing the serviced company's organization in the operation thereof during a trial or preliminary period. Engineering plans are submitted to the serviced company for approval before construction work begins. When engineering services are provided in connection with construction work the general office construction staff of Phoenix coordinates the engineering, purchasing, factory production, traffic and construction services for the project as a whole. 1160 1161

C. The construction services of Phoenix are rendered in accordance with the terms of a standard construction contract covering each specific project or development. Exhibit 55 is a copy of the form of such contract.

1162 D. Generally where a construction contract is entered into by a serviced company with Phoenix, the latter company also performs, or has previously performed, engineering work for the project, as described in paragraph B, except in those cases in which all or a portion of the engineering work has been performed by the serviced company, in which case such work, where of substantial importance, is reviewed and approved by Phoenix or Ebasco. Subject to the terms of the construction contract, Phoenix assumes charge of building and completing such projects in accordance with the
1163 plans and specifications. The services provided are rendered from the New York office or in the field and include: (1) organizing and directing the construction operations; (2) assembling the construction force and construction equipment; (3) installing the construction plant and facilities; (4) letting of subcontracts and directing the work of subcontractors; (5) purchasing all necessary materials and equipment in accordance with the plans and specifications, and routing, classifying and tracing shipments; (6) keeping accounts of the cost of the work and all expenditures in connection
1164 therewith; (7) preparing reports and records of construction progress and such physical and cost data as may be required; (8) procuring liability and such fire and other insurance as required; (9) all other similar things incidental to the completion of the contract work. In the performance of these construction contracts, Phoenix builds up, around a nucleus personnel sent out from the New York office, a field staff which is maintained until the completion of the job. This staff is under the direc-

tion of superintendents sent out from the New York office, or specifically employed for the job, who, in 1165
turn, act under the supervision and direction of the New York office of Phoenix. The performance of such construction contracts requires frequent communication between the New York office of Phoenix and its field staff, and the transmission of plans, designs, instructions, information and funds from New York City to the field. In prosecuting construction work, Phoenix consults with the serviced company and sometimes with the operating sponsor, in advance of important decisions, bringing to its attention features of construction activities which may affect the operation of the 1166
company's system. Some member of the serviced company's organization is designated by that company as the authorized medium of communication in all matters pertaining to the contract work.

E. Since December 31, 1932 there have been no general or continuing contracts with any serviced electric utility company, but Phoenix renders construction services from time to time under particular contracts for particular major projects. It has at the present time but 1167
three such contracts, each of which is for a specific power station. The ratio of the construction work done for serviced companies by Phoenix to the construction work done by such companies themselves or through outside contractors or organizations is indicated by the ratios thereof shown in Exhibit 91 described in Section 87. Phoenix has, however, a general construction contract with United Gas Public Service Company under which

it performs, on request by that company and
1168 its subsidiaries, such construction work as is desired by them to be performed by Phoenix. This construction work amounts to approximately 15% of the construction work being currently carried out by United Gas Public Service Company and its subsidiaries.

F. The engineers and other personnel of Phoenix are also available for, and are used by, the Ebasco service organization for advice, assistance and general work supplementary to the work performed by such service organization, without charge to the ser-
1169 viced companies.

81. *Compensation, Income and Expenses of Ebasco.*

From the date of commencement of its performance of the service contracts on November 25, 1935, until April 30, 1936, Ebasco received for services rendered under Part I of the service contract fees computed upon a percentage of monthly operating revenues of the serviced companies in accordance with the schedule effective immediately prior to
1170 that date. From and after May 1, 1936, a reduction of 20% in the basic fees in force prior to May 1, 1936 was put into effect by Ebasco on its own initiative, and is expressed in a schedule based on percentages of monthly operating revenues of each serviced company as follows: 1.00% of the first $1,000,000; 0.80% of the next $1,000,000; 0.60% of the next $1,000,000; 0.40% of the next $1,000,000; and 0.20% of all additional.

Efficiency and betterment studies described in Paragraph (d) of Section 26, rate studies 1171
and new business investigations described in Section 30 and accounting investigations and system installations described in Section 31 of Part II of the service contract (Exhibit 62) have been since November 25, 1935, and are now rendered by Ebasco as general services under Part I without charging the fees prescribed therefor in such Part II. This change in practise was accomplished by Ebasco on its own initiative without formal modification of the contract or general written notice to the serviced companies 1172
until confirmed in the notice of reduction of fees sent out on or after May 1, 1936, hereinabove referred to. Certain special engineering services, including certain investigations, appraisals and reports provided for in Part II of the service contract are furnished by Phoenix Engineering Corporation for special compensation (the compensation actually paid to engineers and other employees while engaged in such services, plus 90 %), as provided for in said Part II of the service contract. For construction services, the serviced company pays, under contracts made since November 25, 1935, in 1173
lieu of the schedule provided in Part II of the service contract, an amount equal to four per cent of the total cost of the contract work after the deductions provided for in the construction contract (Exhibit 55). The following expenses are not charged to the work as items of cost: (1) the services, wherever rendered, of the officers and general office construction staff of Phoenix; (2) the services of its administrative, purchasing, traffic,

accounting and insurance personnel in New York;
1174 (3) the facilities of its general office, including office expenses in New York; (4) the services of supervisory personnel specifically assigned to the work to the extent required by the nature and magnitude of the contract work, such as a resident construction manager, a resident general superintendent, a resident auditor and a resident engineer.

The income received by Ebasco from the performance of the general and special services rendered by it as herein described in the period from November 25, 1935 to date represented substantially all
1175 of the gross revenues of Ebasco in such period. Exhibit 56 contains a balance sheet and statement of the income and expenses of Ebasco for the period from November 23, 1935, to April 30, 1936.

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ARTICLE XIV

1177

HISTORY OF BOND AND SHARE SERVICE ORGANIZATION AND DESCRIPTION OF SERVICES RENDERED.

82. *Origin and History of Service Arrangements.*

A. The following is a brief historical statement of the origin and development of Bond and Share services during the period prior to November 25, 1935.

B. It is characteristic of the operating utility companies whose securities were acquired by Bond and Share or by American Company, National Company or Electric Company that they operate in widely separated territories and in areas in which small cities and towns predominate. The largest city served by any of these companies is the City of New Orleans, Louisiana, with a population of 458,762 (1930 census). Of the 3239 cities and towns having an aggregate population of 11,114,000 served on December 31, 1934 at retail with electricity or gas by the present subsidiaries of the above companies, 14 cities with an aggregate population of 3,061,000 have a population in excess of 100,000 each; 11 cities with an aggregate population of 729,000, have a population between 100,000 and of 50,000 each; and 3,139, with an aggregate population of 5,074,000, are cities and towns of less than 10,000 inhabitants. It was generally characteristic of these operating utility companies, when acquired, that their operations were confined to a single community or a small geographic area. Many of them were in immedate financial

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difficulties (a substantial number were actually in
1180 receivership) or were confronted with internal dissension among different classes of security holders, or were otherwise unable to keep pace with the development required in the industry. Frequently it was at the instance of the owners or other security holders of these companies that negotiations were entered into which resulted in their acquisition in behalf of or by Bond and Share, American Company, Electric Company, National Company or one of their predecessor or sub-holding companies. On the other hand, The Washington Water Power Company, The Montana Power Company and Cen-
1181 tral Arizona Light and Power Company in the American Company system were acquired as already successful going concerns. In connection with such acquisition and development of these companies, Bond and Share began early in its history to develop a service organization which rendered services to the holding and operating utility companies in the Bond and Share System. The syndicate agreements between Bond and Share and the security holders of predecessor companies who accepted holding company securities and of the
1182 investment banks and financial institutions which participated in or underwrote the original financing of many of these companies contemplated that Bond and Share would render such services to such holding and operating companies and would receive compensation therefor.

C. The service organization of Bond and Share grew with the growth and development of the holding companies and their subsidiaries. Initially the technical organization consisted of a few men

having previous experience as utility executives, engineers and accountants whose attention was given primarily to the work of correlating the financial, engineering and operating set-up of the newly formed public utility companies, but as the number of these companies increased, it was found to be advantageous to concentrate in New York at the offices of Bond and Share a specialized technical personnel who could continue to render from a central office for all the operating companies the specialized services which are herein described. Initially such services were rendered by Bond and Share without the execution of any written contracts and without any prior written agreement between Bond and Share and the serviced companies for compensation to Bond and Share. Such services were paid for from time to time, after performance, pursuant to agreements then made between Bond and Share and the serviced company. Exhibit 57 is a copy of resolutions of the board of directors of American Company authorizing the payment of fees to Bond and Share for services previously rendered, and is an example of the manner in which, prior to the execution of the service contracts, Bond and Share was compensated for certain services after they had been rendered. 1183 1184 1185

D. Beginning with the year 1915, Bond and Share began to adopt the practice of entering into written service contracts defining the services which it undertook to render the serviced companies and fixing the compensation which it was to receive therefor. Until approximately 1922, there was no

standard form of service contract or schedule of
1186 compensation or manner of payment for services rendered to serviced holding or operating companies. In some cases service contracts were entered into directly between Bond and Share and the serviced company. In other cases, Bond and Share rendered services to operating companies which were subsidiaries of a holding company, pursuant to service contracts with such holding company. In some instances the service contracts provided for compensation to Bond and Share through a fixed annual fee, while in others the
1187 fee was based upon a stated percentage of gross earnings or construction expenditures. Payment was made by the operating company where it had entered into a contract with Bond and Share or, in certain cases prior to 1922, by the holding company, in behalf of its subsidiary operating companies, where such holding company had entered into a contract with Bond and Share.

E. From and after 1917, all or substantially all of the holding companies and operating companies in the Bond and Share System (other than
1188 companies in the American Gas System) were receiving services from Bond and Share pursuant to service contracts, and as additional holding companies or operating companies became members of the Bond and Share system through purchase or acquisition of stock by Bond and Share or by one of said holding companies, such companies received services from Bond and Share, either pursuant to prior contracts with serviced holding companies or, more commonly, pursuant to ser-

vice contracts between Bond and Share and such newly acquired companies. 1189

F. Exhibit 58 is a copy of a service contract between Bond and Share and Carolina Power & Light Company, dated December 15, 1914, and effective January 1, 1915. This contract is illustrative of service contracts between Bond and Share and serviced operating companies prior to 1922.

G. From and after the date of the organization of American Company in 1909 until May 1, 1917, Bond and Share rendered to it and to its subsidiary operating companies, supervisory services without 1190 any written contract. A service contract between Bond and Share and American Company was executed on May 1, 1917. Such contract was in substantially the same form as the service contract with Carolina Power & Light Company (Exhibit 58) referred to in paragraph F of this section.

H. On January 16, 1915, (prior to the date of the service contract between American Company and Bond and Share referred to in paragraph G), American Company executed a service con- 1191 tract with its subsidiary Pacific Power & Light Company, under the terms of which American Company agreed to furnish services to Pacific Power & Light Company or to cause such services to be furnished to it. Exhibit 59 is a copy of this contract. Engineering, construction and related services performed for Pacific Power & Light Company under this contract were, in fact, performed, at the instance and cost of American Company, by Bond and Share or its construction subsidiary.

I. At the time of the organization of the former
1192 National Company in December 1921, the agreements between the various parties (including Bond and Share) having a financial interest in the companies whose stock was acquired by National Company provided that Bond and Share would enter into a contract with National Company for the rendition of general services, to it and its subsidiaries and such services thereafter were rendered to the operating subsidiary companies of National Company pursuant to standard contracts of the form described in the following paragraph K hereof.
1193 Exhibit 60 is a copy of the service contract with National Company.

J. At the time of the organization of Electric Company in March, 1925, the agreements between the various parties (including Bond and Share) having a financial interest in the companies whose stock was acquired by Electric Company provided that Bond and Share would enter into a contract with Electric Company for the rendition of general services to it and its subsidiaries, and such services thereafter were rendered to the operating subsidiary
1194 companies of Electric Company either pursuant to such contract or pursuant to standard contracts of the form described in the following paragraph K hereof. The provisions of the contract with Electric Company relative to the services to be performed by Bond and Share and the compensation to be paid it therefor were substantially the same as those provided in the service contract with National Company (Exhibit 60) referred to in paragraph I of this section.

K. In 1922 a standard form of contract for serviced operating companies, including uniform provisions for compensation to Bond and Share, was prepared by Bond and Share after consultation and in collaboration with field executives of the serviced companies and executed by Bond and Share and by most of the serviced operating companies. Exhibit 61 is a copy of the form of this contract. In 1929 a new form of contract with serviced operating companies providing, among other things, for reduced fees, was prepared by Bond and Share after consultation and in collaboration with field executives of the serviced operating companies and was executed by Bond and Share and by each serviced operating company. The schedule of fees provided for in these contracts has been reduced from time to time, and such contracts are in force at the present time (except that Bond and Share has assigned them to Ebasco, as hereinabove stated). Exhibit 62 is a copy of this form of contract as now in force, except for the reductions of fees referred to in Section 81. 1195 1196

L. In 1929, a standard form of service contract for serviced holding companies was adopted by Bond and Share and executed by it and by each serviced holding company and approved by a majority of the directors of each such holding company, excluding directors who were also officers or directors of Bond and Share. This form of contract was amended from time to time, principally by reductions in the schedule of fees to be paid to Bond and Share and, as so amended, remained in force until on or about November 25, 1935, when all contracts with serviced holding companies were cancelled, as hereinabove stated. Ex- 1197

hibit 63 is a copy of the form of service contract
1198 with serviced holding companies in force immediately prior to November 25, 1935.

M. No serviced holding or operating company received general services of the character and scope described in the service contracts and herein enumerated from any company other than Bond and Share subsequent to its acquisition by Bond and Share or a holding defendant and prior to November 25, 1935, or (in the case of serviced operating companies) has received such services from any company other than Ebasco subsequent
1199 to the latter date, and no such company has solicited bids from other corporations or organizations for the rendition of such general services. Such serviced companies have, however, from time to time contracted with outside organizations for particular engineering or construction jobs and since 1932, and in some cases prior thereto for auditing services, as stated in the following section. Neither Bond and Share for many years last past, nor Ebasco, has performed services for any holding company or utility company other than companies
1200 included in the Bond and Share system. All contracts executed by serviced operating companies since the adoption of the standard form of contract in 1922 have been uniform except as to the name of the serviced operating company. In every case, the execution of the service contract was specifically authorized and approved by the directors of the serviced company.

83. *Services Formerly Rendered by Bond and Share.* 1201

Exhibit 64 contains functional charts of the major divisions of Bond and Share and of its service organization, showing the general character of the duties of each of its several divisions as they existed just before November 25, 1935. Bond and Share, prior to November 25, 1935, rendered the services now rendered by Ebasco, as described in the preceding article and the following additional services for serviced operating companies:

A. *New York officers.* Prior to November 25, 1935, members of the operating division of Bond and Share were elected to the positions of, and acted as, vice-presidents, assistant secretaries and assistant treasurers of the serviced companies for the purpose of executing and attesting, pursuant to general or special authorizations of the board of directors of such companies, formal certificates, statements, reports, attestations and financial documents which could be most expeditiously and conveniently handled in New York. 1202

B. *Accounting Department.* Prior to January 1, 1932, the accounting department audited (for the special compensation provided in Part II of the service contract) the accounts of most of the serviced companies (a few being audited by independent certified public accountants), but discontinued such practice after that date. Subsequent to 1932, audits of the accounts of all of the serviced companies have been made by inde- 1203

pendent certified public accountants. Substan-
1204 tially all of the serviced companies employ the same firm of certified public accountants for this purpose.

C. *Tax Department.* The former tax department of Bond and Share prepared consolidated returns, when such returns were allowed by law, and transmitted them to the officers of the holding company concerned for approval, signature and filing. If tax savings resulted from the filing of consolidated returns, such tax savings went to the companies included in the consolidated return in proportion
1205 to their tax liabilities on an individual basis and were not received or retained by the holding company or by Bond and Share.

D. *Treasury Department.* Prior to January 1, 1935, the treasury department prepared checks for preferred stock dividends, in accordance with eastern transfer agents' lists, for transmittal to such stockholders as appeared on said lists residing in states other than those served by the serviced companies. The appropriate local officers of the serviced companies prepared and distributed the
1206 checks for preferred stock dividends to preferred stockholders shown on local transfer agents' lists as residing in the states served by said companies. During 1933 and 1934, most of the eastern transfer agencies for serviced operating companies were discontinued, and since January 1, 1935, preferred stock dividends have been distributed by checks prepared and mailed by the appropriate local officers of the serviced companies.

Evidencing the volume of deposits and disburse-

ments made by the treasury department on behalf of serviced companies, an aggregate of $117,705,-720.98 was deposited in New York bank accounts of the serviced operating companies and $111,555,-897.34 was disbursed from such accounts in the calendar year 1935. 1207

E. *Secretarial Department.* The former secretarial department of the operating division of Bond and Share prepared and transmitted notices of stockholders' and directors' meetings held at places other than at the principal office of such serviced company, prepared agenda for such meetings, supervised the holding of such meetings, advised interested parties of the results thereof, prepared and certified minutes of such meetings and received copies of the minutes of meetings held at the principal offices of the respective serviced companies, and drafted, under the supervision of counsel, resolutions required by bankers, security exchanges and trustees. It acted as transfer agent for the stocks of serviced companies in those cases where the number of shares outstanding in the hands of the public was small. It represented the serviced companies in negotiations in and near New York with representatives of banks, trustees, transfer agents, registrars, security houses, security holders, printers, engravers and others. 1208 1209

F. *Construction Services.* Prior to December 31, 1932, Phœnix Utility Company (predecessor of Phœnix Engineering Corporation) had continuing construction contracts with some of the

serviced companies under which it performed an
1210 important part of their construction work under supplemental orders given from time to time under said contracts without the execution of new contracts. This work included the construction not only of power plants but also of transmission lines, distribution systems and certain other facilities. As of December 31, 1932, all general or continuing construction contracts between Phœnix Utility Company and electric serviced operating companies were formally cancelled, and since that date the practice of doing routine construction work for operating electric utilities has been discon-
1211 tinued, Phœnix being employed only on particular major jobs.

In addition to the construction services outlined above, a construction supervision service was provided under which Phœnix Utility Company, prior to 1933, supervised construction work done for a serviced company by a general contractor. Such services were covered by a construction supervision contract. Exhibit 65 is a copy of the form of supervision contract. The compensation for these services was one-half that of the standard
1212 contract under which the Phœnix Utility Company itself did construction work. Engineering services, to the extent requested, were provided under this form of contract on the same basis as under the standard construction contract. The last such contract was performed in 1932, since which date neither Phœnix Utility Company nor Phœnix has made any such contract.

Exhibit 66 is a copy of the standard form of contract under which construction services were

rendered by Phoenix Utility Company to certain serviced companies prior to December 31, 1932. 1213

G. *Financial Services.* Financial services formerly rendered by Bond and Share are described in article XV.

84. *Reports Formerly Made by Serviced Companies to Bond and Share and Now Made to Ebasco.*

A. From time to time Bond and Share, after consultation and discussion with the serviced operating companies and after consideration of their operating requirements, the planning and development of their properties, the requirements of regulatory authorities, the standard classification of accounts adopted by the National Association of Railroad and Utilities Commissioners, requirements and practices of certified public accountants, and the experience and practices of other companies in the public utility and other industries, prepared, and thereafter from time to time suggested revisions or amendments of, many standard forms for the use of the serviced companies, and recommended their adoption .These forms included financial and operating reports, cash reports, stores reports, operating budgets, sales budgets, construction budgets, cash budgets, master budgets and other forms of reports designed to reflect, in detail, the over-all financial, sales and operating position of each operating company and estimates of its cash requirements, and its sales, operating and construction programs. These forms ordinarily included, or were accompanied by, printed or mimeographed explanations, illustrations and instructions 1214 1215

to be followed in their preparation, and were trans-
1216 mitted to all serviced companies. It was recommended that each company adopt these forms in its operations and reports, and that copies of completed forms be transmitted to Bond and Share periodically. The serviced companies generally adopted such forms, in some cases with such exceptions or modifications as local conditions required, and periodically transmitted copies thereof to Bond and Share. Bond and Share negotiated contracts for the printing of such forms, and the serviced companies purchased such forms directly
1217 from the printers pursuant to this contract, except to the extent that such companies arranged to have them printed locally. Subsequent to November 25, 1935, Ebasco has performed the services described in this paragraph, and the serviced operating companies now transmit copies of the forms and reports herein referred to to it instead of to Bond and Share. The following paragraphs of this section contain a further description of the forms, reports and procedures referred to in this paragraph.

1218 B. Exhibit 67 is an accounting bulletin, dated August 15, 1935, prepared by the operating division of Bond and Share which lists certain forms for reports and data which Bond and Share had theretofore recommended that each serviced company prepare, together with recommended dates for the transmittal to Bond and Share of copies of such forms. This bulletin was transmitted to each serviced company on or about August 15, 1935. The forms therein referred to, together with other forms subsequently recommended by Bond and Share,

were regularly prepared by substantially all of the serviced companies and copies were transmitted to Bond and Share and are now transmitted to Ebasco on or about the dates recommended in said bulletin. 1219

C. Exhibit 68 is a pamphlet dated January 1, 1933, entitled "Comments Relating to Principal Changes in Financial and Operating Report." Each financial and operating report is usually accompanied by a letter of comment from an executive of the serviced company. Exhibit 69 is a copy of the letter accompanying the report of Nebraska Power Company for the month of December, 1935, which may be taken as broadly typical of such letters. 1220

D. Exhibit 70 consists of (1) a letter, dated December 10, 1935, from the general auditor of Ebasco, which was transmitted to each serviced company advising it of a contemplated change in certain forms contained in the financial and operating report prepared by Bond and Share; (2) a letter from the general auditor of Ebasco, dated December 31, 1935, and transmitted to each serviced company advising it of the preparation of a revision of the forms referred to in said letter; and (3) portions of a pamphlet entitled "Explanation of Sales and New Business Report Forms" which was transmitted by Ebasco to the serviced companies on or about December 31, 1935. The foregoing documents are typical of the method employed for advising the serviced companies of recommendations for the adoption and use of revisions in report forms. 1221

E. Exhibit 71 is a copy of the form of monthly
1222 cash situation report, with the instructions for its use, employed by serviced companies having New York bank accounts with respect to the disbursement of funds from such accounts.

F. Exhibit 72 consists of portions of a pamphlet entitled "Specimen Forms, Explanations and Instructions for Cash Control and Conservation Report" which was prepared by Bond and Share and transmitted to each serviced company on or about April 30, 1932.

1223 G. Exhibit 73 contains portions of a pamphlet entitled "Specimen Forms, Explanations and Instructions—Construction Budget" which was prepared by Bond and Share and transmitted to each serviced company on or about October 1, 1931, and a copy of the construction budget report form prepared by Bond and Share and transmitted to each serviced company on or about November 19, 1932. This form of report is prepared by each serviced company and copies thereof transmitted monthly. Exhibit 74 is a copy of the form
1224 formerly used by Bond and Share and now used by Ebasco to make recommendations to serviced companies for revisions in their construction budgets. The present form used by Ebasco is the same, except that it omits the notation over the sponsor's signature "Recommendations approved for presentation to Holding Company Board", and budget recommendations are no longer presented to such Boards for their approval, but are transmitted to the serviced companies by Ebasco.

H. Exhibit 75 consists of portions of a pamphlet entitled "Expenditure Requisition System" which was transmitted by Bond and Share to each of the serviced companies on or about January 1, 1932. Substantially all of the serviced companies adopted and use the expenditure requisition system described in this exhibit. 1225

I. Exhibit 76 consists of portions of a pamphlet entitled "Sales Budget—Instructions for Preparation of Sales Budget and Sales Program" transmitted to each of the serviced companies on or about September 1, 1935. Each of the serviced companies prepared and transmitted to Ebasco copies of its 1936 sales budget prepared substantially in accordance with the procedure outlined in said exhibit. 1226

J. Exhibit 77 consists of a pamphlet entitled "Instructions for Preparation of Operating Budget," together with a copy of a letter from Bond and Share, which were transmitted to each of the serviced companies on or about November 1, 1934. Each of the serviced companies prepares and transmits annually copies of its operating budget substantially in accordance with the procedure outlined in said exhibit. 1227

K. Exhibit 78 consists of portions of a pamphlet entitled "Cash Budget Instructions," transmitted to each of the serviced companies on or about November 19, 1932. Each of the serviced companies prepares and transmits annually copies of its cash budget prepared substantially in accordance with the procedure outlined in said exhibit.

1228 L. Exhibit 79 consists of portions of a pamphlet entitled "Specimen Forms, Explanations and Instructions for the Preparation of the Master Budget" transmitted to each of the serviced companies about December, 1934. Each of the serviced companies prepares and transmits annually copies of its master budget prepared substantially in accordance with the procedure outlined in said exhibit.

1229 M. Exhibit 80 consists of portions of a pamphlet entitled "Recommended Classification of Accounts" transmitted to each serviced company on or about July 1, 1927. This recommended classification was a modernization and amplification of the classification of accounts recommended by the National Association of Railroad and Utilities Commissioners in 1922.

N. Exhibit 81 consists of a pamphlet entitled "Memorandum Report of Taxes" including instructions for the preparation of said form which was transmitted to each serviced company on or about September 20, 1932.

1230 85. *Bibliography of General Reports and Studies.*

Exhibit 82 is a bibliography of letters, bulletins, studies and reports prepared by the operating division of Bond and Share or by Ebasco for general distribution among the serviced companies and transmitted through the mails to all or substantially all of the serviced companies during the calendar year 1935. In many instances, only one copy of each such study or report was originally transmitted to

each serviced company, but thereafter additional copies were transmitted to the serviced companies upon their request therefor. 1231

85A. *Engineering Studies and Reports.*

A. Exhibit 83 contains portions of an index of the specifications for equipment, materials and supplies, recommended by the engineering department to all serviced operating companies and generally adopted by them.

B. Exhibit 84 contains a list of engineering letters upon technical and engineering phases of the operation of utility properties which were prepared for distribution among the serviced companies and a list of general engineering reports prepared for like distribution. 1232

86. *Exhibits Relating to Purchasing Services.*

A. Exhibit 85 contains (1) a table for the years 1928-1934 (1935 data being as yet unavailable) showing the total volume of purchases of serviced operating companies, the volume of their purchases under contracts negotiated by Bond and Share and the volume of their local purchases, and (2) a collection of typical purchase contracts, negotiated by Ebasco, in effect during 1936. 1233

B. Exhibit 86 is a statement of the amounts which were realized from July, 1932 to April 1936, together with an estimate of the amounts realized from January, 1929 to July, 1932

by the serviced companies through the sale of ma-
1234 terial and apparatus listed by the purchasing department in its periodic lists of major items of material and equipment no longer required by particular serviced companies.

C. Exhibit 87 is a copy of a volume purchase contract (omitting detailed supporting schedules) between Bond and Share and General Electric Company which was originally executed in 1912 and which, as amended from time to time by revising the list of serviced companies entitled to purchase thereunder and the schedule of apparatus
1235 and equipment, was renewed from year to year thereafter. On or about January 2, 1933 this contract was cancelled and a new contract executed between the parties which, as amended from time to time by revising the list of serviced operating companies entitled to purchase thereunder and the schedules of apparatus and equipment, was renewed from year to year thereafter and is now in full force and effect, except that Bond and Share has assigned its interest thereunder to Ebasco as hereinbefore set forth. Exhibit 88 is a copy of this contract (omitting detailed schedules) as in force during the year
1236 1935. Exhibit 89 is a copy of a similar contract (omitting detailed schedules) between Bond and Share and Westinghouse Electric & Manufacturing Company (likewise assigned to Ebasco) as in force during the year 1935.

Stipulation of Facts

87. *Exhibit Relating To Construction Services.*

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Exhibit 90 contains statements of the cost of construction and reconstruction work performed by and supervised by Phoenix Utility Company and Phoenix for the serviced companies for the period 1920-1935, and the cost of the work performed by the serviced companies themselves or through general contractors.

88. *Exhibits Illustrative Of Services To Particular Companies.*

A. Exhibit 91 is a detailed statement prepared 1238
by Bond and Share of the supervision and general services rendered by it, pursuant to Part I of the service contract, to Idaho Power Company for the period from January 1, 1934 to October 31, 1935, which is a typical statement of the type and character of the general services which were rendered by Bond and Share pursuant to Part I of the service contracts to a serviced operating company.

B. Exhibit 92 is a statement prepared by Kansas Gas and Electric Company outlining the development of the generation and transmission facilities 1239
of that company, which is a typical statement of the type and character of construction and reconstruction and special engineering services performed by Phoenix Utility Company and by Phoenix and by the engineering department of Bond and Share for a serviced operating company.

89. *Income From Performance of Services By Bond and Share.*

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A. The income which was received by Bond and Share for the performance of the general and special service herein described represented a substantial portion of the gross revenues of Bond and Share. The net profit derived by Bond and Share from the performance of such services represented a substantial part of the income of Bond and Share. Exhibit 93 contains statements of the income and expenses of Bond and Share and Phoenix (and its predecessor, Phoenix Utility Company) for
1241 the years 1926 through 1935 indicating the source and distribution of their income and expense and an analysis of their income and expense from the performance of the services above described, all as shown on the books of these companies.

B. The fees for general services under Part I of the contract have, since the beginning of 1933, been recorded by the serviced companies on their books of account as an operating expense for the current year, but prior to 1933 certain
1242 serviced companies distributed a part of such expense as a capital investment in the business in which they were engaged. Fees for special services rendered under Part II of the contract have been charged by serviced companies either to operating expenses or as a capital investment, depending upon the character of the services rendered.

ARTICLE XV

1243

FINANCIAL SERVICES RENDERED BY BOND AND SHARE TO SERVICED COMPANIES

90. *General Statement.*

A. Prior to November 25, 1935, it was the practice of Bond and Share to take a leading part in planning the financial programs of the serviced companies upon and after their organization as, or subsequent to the time they became, members of the Bond and Share system, in collaboration with the officers and directors of such companies and others 1244
financially interested therein, in the manner hereinafter stated. These services were performed for American Company, National Company, Electric Company and their subsidiaries, pursuant to provisions in the service contracts or service arrangements described in this stipulation. Subsequent to November 25, 1935, Ebasco has remained equipped to render financial services as in the service contract and herein described, but has not been called upon to render, and has not rendered, such services and has had no occasion to formulate a policy with respect thereto. 1245

B. The description of the financial services set forth in this article is a description of such services as were performed by Bond and Share for the serviced companies upon and after their organization as, or subsequent to the time they became, members of the Bond and Share system. None of the serviced holding or operating companies has issued or sold any securities nor has Bond and Share rendered

any service in connection with the issue or sale
1246 of any such securities for such serviced holding or operating companies (other than the negotiation of bank loans and the fulfillment of pre-existing security obligations, such as the occasional issuance of stock pursuant to outstanding options, the completion of sales of stock previously sold under installment contracts, and like transactions) since April 1, 1933, except as follows:

	Company	*Nature of Transaction*	*Date*
1247	New Orleans Public Service Inc.	Extension to 1942 of maturing General Lien 4½% Gold Bonds	1934
	Great Northern Power Company (predecessor of Minnesota Power & Light Company)	Extension to 1952 of maturing First Mortgage 5% Gold Bonds	1934
	Northwestern Electric Company	Extension to 1945 of maturing First Mortgage Twenty Year Sinking Fund Gold Bonds	1935
1248	Texas Power & Light Company	Refinancing of maturing First and Refunding Mortgage Bonds	1935

The first three were extensions of maturing obligations negotiated with existing holders of the extended securities (accompanied in the case of New Orleans Public Service Inc. and Northwestern Electric Company by reorganization proceedings under Section 77B of the Bankruptcy Act of 1933), and the

last was accomplished by private sales of refunding bonds issued under an existing mortgage. Bond and Share charged no fee for services in connection with these transactions. Lehigh Valley Transit Company, a subsidiary of Lehigh Company, began in October, 1935, and still has pending a proceeding in the United States District Court for the Eastern District of Pennsylvania for reorganization under Section 77B for the purpose of extending certain then maturing obligations which, at their issuance, were subject of a public offering through the use of the mails and the facilities of interstate commerce, and are now held by many persons residing both within and without the state of Pennsylvania. The plan of reorganization submitted to the court has been approved by the requisite number of holders of the securities involved and also has been approved by the Pennsylvania Public Service Commission. The plan contemplates the extension of the maturities of the securities deposited in accordance with the plan, and will require the use of the mails and other facilities of interstate commerce in the transmission of such securities (endorsed to indicate such extension and with additional coupons affixed thereto) to the holders thereof. No fees were charged by Bond and Share, or by Ebasco, in connection with any of the foregoing services.

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C. Matters relating to original corporate structures of the serviced holding and operating companies, the raising of additional capital thereafter through short term loans, or the sale of bonds, debentures and preferred and common stock, and matters pertaining generally to the financing of

these companies were developed by Bond and Share
1252 in consultation with officers and directors of and counsel for the serviced companies, and with the advice of New York counsel for such companies, who generally were the New York firm of lawyers who usually acted as counsel for Bond and Share and the holding companies. Before specific financial negotiations and commitments were made by Bond and Share on behalf of these companies, they were discussed with the officers and directors thereof. After tentative commitments were made, they were submitted to the officers and directors of such companies for their approval. Where approvals or
1253 consents of State Public Utility Commissions or similar state authorities were required for issuance or sale of securities, such approvals or consents were obtained.

D. The functions performed by Bond and Share in the original organization of the serviced holding and operating companies have been described in previous articles. The following sections of this article describe the services rendered by Bond and Share in the formulation of programs for
1254 financing and re-financing and in the negotiation and sale of securities of such companies subsequent to their organization.

91. *Formulation of Financial Programs.*

A. Through it service organization and by reason of the facts elsewhere stated herein, Bond and Share was in constant and intimate contact with the affairs of the serviced holding and operating companies, and by means of the studies made by and

the copies of reports transmitted to it, as hereinabove described, kept advised as to all pertinent facts relating to the need or desirability for refunding or re-financing outstanding securities and for raising new capital for extensions or betterments of the systems or other purposes. Through the budgetary system hereinabove described, including the part relating to construction expenditures and the acquisition of additional properties of the serviced operating companies, Bond and Share was able to assist and advise the several operating companies in correlating their construction and acquisition programs with their financial programs. 1255 1256

B. New capital of the holding and operating companies was obtained by means of short term loans and the sale of bonds, debentures and preferred and common stock. Where funds were required to meet current expenditures or where the money market was not favorable for long-term financing, Bond and Share arranged for short-term loans which, in some cases, were made by banks to the holding companies and to the operating companies requiring the funds, or, in the majority of cases, by Bond and Share or the holding companies to the operating company subsidiaries or by Bond and Share or the operating companies (none since 1931) to the holding companies. Exhibit 94 is a table of short term loans made by Bond and Share to, and by and to, the holding defendants and their subsidiaries for the years 1920-1935. Exhibit 95 is a table of short term loans negotiated through Bond and Share for the holding and operating companies from 1257

1258 banks for the period 1920-1935. Short term loans were either repaid out of current earnings or were re-financed on a permanent basis through public offerings when financial conditions or the financial position of the borrowing company became more favorable, or through the issuance to the holding companies of stocks or long-term obligations.

1259 C. It was the practice of Bond and Share to negotiate short-term loans and the sale of securities, in accordance with the provisions of the service contract, by letters or conversations passing between Bond and Share and the officers of the issuing companies, without any further previous formal authorization by the boards of directors of such companies, but the loans were not consummated, nor the sales made, without authorization or approval thereof by such boards of directors being first had and obtained.

1260 D. As stated above, the permanent financing of the holding and operating companies subsequent to their organization took the form of bond issues, debenture issues, or preferred or common stock issues. Bonds and debentures generally were sold to the general public by purchasing syndicates of investment bankers. Preferred Stock was sold either in the same manner or to customers of operating companies and others residing within the territory which they served. In the case of the issuance of securities of the holding defendants through a purchasing syndicate of investment bankers, officers, directors and employees of the holding and

operating companies (both the issuing company and others) were, in some instances, offered the right to 1261
participate in such syndicate upon the same terms as the other members thereof. Common stock of the operating companies was generally issued to their parent holding companies as described in previous articles. Common stock of the holding companies was sold to the public through the issuance to stockholders of rights to subscribe or was issued in connection with acquisition of additional properties. The following sections of this stipulation describe the mechanics of such permanent financing.

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92. *Bonds, Debentures and Preferred Stock Sold Through Investment Bankers.*

A. When a decision was reached to sell an issue of bonds, debentures or preferred stock of a particular company, Bond and Share obtained a tentative short term commitment from an investment banker or syndicate of investment bankers (herein referred to as the "purchasing group"). The members of the purchasing groups for various issues are named in Exhibit 96, referred to in paragraph E of this 1263
section.

B. After a favorable tentative commitment had been obtained, Bond and Share, assisted by New York counsel for the issuing companies, worked out purchase contracts with counsel for the purchasing group, usually in the form of a letter from the purchasing group to the issuing company, confirming the tentative commitment of the purchasing

group and setting forth the terms of the purchase
1264 agreement. Such letters were often signed by a vice-president of the issuing company who was also an officer or director of Bond and Share, located at its offices in New York City. Purchase contracts were made subject to the approval of, and were subsequently ratified by, the board of directors of the issuing company. Such documents as mortgages, trust indentures, bond, debenture or stock certificate forms, and the like, were ordinarily prepared in New York by counsel for the issuing company in New York, assisted by the Corporate Department of Bond and Share. Other documents,
1265 such as engineer's certificates, opinions on titles and franchises, resolutions and the like, were prepared in the field and transmitted to Bond and Share for delivery to the trustees or purchasing group. Bond and Share, on behalf of the issuing company, caused the securities to be printed or engraved in New York. Bond and Share, on behalf of the issuing company and the purchasing group, ordinarily nominated trustees, fiscal agents, registrars or transfer agents (generally corporations having their principal offices in New York) which
1266 were designated by the issuing company, and the bonds, debentures or stock certificates were delivered for certification and registration and thereafter to the purchasing group.

C. Bond and Share, assisted by New York counsel for the issuing companies and the purchasing group and its counsel, prepared a letter describing the issue, addressed to the purchasing group, for the signature of the president or a vice-president of the issuing company. Such letter was frequently

signed by a vice-president of the issuing company who was also an officer of Bond and Share located in its offices in New York City. Such letter was thereupon incorporated in the selling circular prepared by the purchasing group with the assistance of Bond and Share. The selling circulars bore the name of one or more of the purchasing group. Circulars and other advertising matter issued subsequent to 1924 stated that the issuing company, if a holding company, was supervised (under the direction and control of the board of directors of the issuing company) by Bond and Share or, if an operating company, that it and its parent holding company were similarly supervised (under the direction and control of their respective boards of directors) by Bond and Share. Prior to 1924, the parenthetical clauses were omitted. Such circulars, after their preparation, were widely distributed through the mails to bankers, brokers and other dealers in securities and to investors in many states of the country. Such circulars were distributed both by the purchasing group and, on individual request, by Bond and Share. The copies distributed by Bond and Share bore its name in place of the names of the members of the purchasing group, or in some cases bore no name.

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D. After the delivery of the securities to the purchasing group, they were distributed to bankers, brokers, dealers in securities and individual investors located in important investment centers throughout the country. From these points the securities were further distributed both locally and by use of the mails and the facilities of interstate commerce to the ultimate investors.

E. Exhibit 96 is a table showing the aggregate
1270 principal amount or number of shares of each bond, debenture and preferred stock issue, the sale of which was negotiated by Bond and Share in the general manner above described, together with the names of the members of each purchasing group participating therein, the price to such group and the offering price thereof to the public, for the years 1920 - 1935.

F. In addition to acting in the capacity just described in connection with the sale of bonds and debentures of the serviced holding and operating
1271 companies, Bond and Share, in the case of the sale of four issues of bonds of New Orleans Public Service, Inc., in the years 1922 to 1929, likewise participated as a member of the purchasing group in the sale of such securities to the general public, and in the profits realized by such purchasing group from such sale.

93. *Preferred Stock Sales to Customers of Operating Companies.*

A. Two methods were followed in the sale of
1272 preferred stock of operating companies to their customers. The first method involved the sale of original issue stock. The second involved the issuance of such stock to Bond and Share or to the holding company of which the issuing company was a subsidiary, and the subsequent sale of such stock to the customers of the serviced operating company and to others. In both cases, charter amendments (where required to increase the authorized capital

stock of the company), the text of and the forms for preferred stock certificates, and other legal documents in connection therewith were prepared by counsel for the issuing company in New York in collaboration with Bond and Share. Certificate books containing engraved certificates in appropriate denominations were caused to be prepared in New York in advance of need by Bond and Share on behalf of the issuing company. 1273

B. In the case of the sale of original issue stock, books containing stock certificates in appropriate denominations were caused to be prepared in New York by Bond and Share on behalf of the issuing company and transmitted to the principal office of the issuing company. Upon receipt of such certificate books by the issuing company, the certificates were executed by local qualified officers of the issuing company. Upon the sale of shares of stock, the certificates therefor were registered and transferred by the local transfer agent and registrar on specific authority of the board of directors of the issuing company. A staff of men attached to the customer-ownership division of the Bond and Share securities department went to the office of the issuing company to assist the management of such company in and to participate in and take active direction of the selling campaign in the field. These men thoroughly instructed, trained and directed the employees of the issuing company and salesmen employed for the purpose of making such sales. Preferred stock was then sold by local brokers, bankers and employees of the operating company under the guidance and advice of these members of the Bond and Share staff. Such men either prepared in, or transmitted to, the principal office of the issuing 1274 1275

company advertising material consisting of pam-
1276 phlets and circulars, news items and copy for paid advertising, all of which was subject to the approval of the executives of the management of the issuing company before use. Sales were made to employees and consumers of the issuing company and to others both within and adjacent to the territory served by it.

C. In the case of the sale of preferred stock to customers of an operating company, subsequent to the original issue thereof to Bond and Share or to the parent holding company of such issuing
1277 company, certificates for the stock were shipped, as if on consignment, to the operating company or an officer thereof, as nominee for Bond and Share or the holding company. Such stock was sold in the territory of the issuing company in substantially the same manner as original issue stock, described in paragraph B of this section, by local brokers, bankers and employees of the issuing company, acting as agents for Bond and Share or the holding company, and all expenses, including commissions and sales bonuses, were paid
1278 directly by Bond and Share or the holding company owning such stock.

D. Exhibit 97 is a table showing the number of shares of stock of serviced companies which were sold in customer-ownership campaigns in the manner described in paragraphs B and C of this section for the years 1920 to 1935.

94. *Listing of Securities on Stock Exchanges.*

When securities of an issuing company were to be listed on a stock exchange, Bond and Share in

collaboration with New York counsel for the issuing operating or holding company, prepared and presented applications for such listings. Many of the securities issued by holding and operating companies in the Bond and Share System have been so listed upon recognized stock exchanges and have been and now are dealt in in large volume upon such exchanges, in response to purchase and sales orders, communicated in part by use of the mails and the facilities of interstate commerce, by buyers and sellers residing in states other than those in which such stock exchanges are located. Exhibit 30 is a table showing the volume of sales during the year 1935 of all securities of Bond and Share and the companies in the Bond and Share System which were traded in upon recognized stock exchanges. In addition, Bond and Share assisted in preparing the information necessary to enable the purchasing group to meet the requirements of "Blue Sky" laws in various states. 1279 1280

95. *Personnel of Bond and Share Securities Department.*

The foregoing financial services rendered by Bond and Share were largely performed by its securities department and its statistical department, which were formerly in charge of one of its Vice-Presidents, with the assistance of the corporate and other departments of Bond and Share. Exhibit 98 is a statement of the personnel of the securities department of Bond and Share as of December, 1929. 1281

ARTICLE XVI

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AMERICAN GAS

96. *Origin.*

A. In 1906, Bond and Share held an option to acquire (for delivery to a new corporation) all securities owned by Electric Company of America, a corporation which held controlling interests in the securities of electric utility companies serving communities in New Jersey, Pennsylvania, New York, West Virginia, Ohio, Indiana and Illinois.

1283 The Electric Company of America was organized in 1899 and was in receivership at the time the above-mentioned option was acquired by Bond and Share. For the purpose of financing the acquisition of these properties and providing additional cash for their improvement, Bond and Share caused a corporation known as American Gas and Electric Company (the predecessor of American Gas) to be incorporated, and assigned this option to it. The new corporation issued and delivered 99 year 5% collateral trust bonds in the aggregate principal amount of $6,282,000 in payment of the securities so acquired.

1284 It further issued preferred stock having an aggregate par value of $1,200,000 and common stock having an aggregate par value of $2,500,000. Common stock of the par value of $1,200,000 and preferred stock of the par value of $1,200,000 was sold through Bond and Share for $1,200,000 in cash. $1,000,000 of the proceeds of such sale was deposited with the trustee under the collateral trust indenture for use in payment of improvements to the properties acquired. The remaining $200,000

was used in the payment of certain expenses of the transaction (including the payment of $30,000 to 1285
Bond and Share as a banker's fee for its services), and for the acquisition of additional securities of electric utilities for the account of the new corporation. The balance of the common stock, having a par value of $1,300,000, was used for promotion profits and expenses, including the issuance to Bond and Share of common stock of the par value of $235,000, without additional cost to it.

B. In addition to the common stock issued to Bond and Share as aforesaid, Bond and Share ac- 1286
quired 156 shares of the common stock of the new corporation of the par value of $7,800. Upon the completion of the organization of the new corporation, Bond and Share held 4,856 shares of its common stock having a par value of $242,800.

C. In 1925 American Gas and Electric Company was consolidated with Appalachian Securities Corporation to form the present American Gas, as more fully described in Exhibit 99, hereinafter referred to.

D. Substantially continuously since the organi- 1287
zation of the original American Gas and Electric Company, Bond and Share has owned voting securities in such company and in the present American Gas, and now owns 17.51% of the total voting securities of American Gas, which precentage has remained substantially constant for six years last past. The details of the present holdings of Bond and Share in American Gas are set forth in Exhibit 28.

97. *Subsequent Acquisitions of Utility Properties.*

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A. In addition to the properties described in section 96, American Gas has, from time to time, purchased for cash, or acquired in exchange for its own securities, securities of other electric companies serving communities in Indiana, Michigan, Ohio, West Virginia, Virginia, Tennessee, Kentucky, Pennsylvania and New Jersey. From time to time it has disposed of certain of the securities originally acquired by it from Electric Company of America, in general those of companies conducting a non-utility business or serving communities not

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contiguous to those served by the companies whose securities it retained. It caused the formation of its present subsidiary companies by consolidations of the properties of companies originally and subsequently acquired by it.

B. American Gas now owns all of the outstanding common stock (with the exception of directors' qualifying shares, where local law so requires) of the following electric utility companies operating in the states indicated below, which common stock

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ownership represents the percentages of outstanding voting securities of said companies set forth in article V. Securities of such companies, or of their predecessors, representing substantial majorities of the outstanding voting securities of such companies, were acquired on or about the dates set forth below. In those instances in which such companies own securities of other electric companies, such subsidiaries are indicated under the name of the parent company.

Name of Company	*Date of Acquisition*	*States in Which Companies Operate*	1291
Wheeling Electric Co.	1906	West Virginia Ohio	
Indiana & Michigan Electric Co.	1922	Indiana Michigan	
The Ohio Power Co.	1906	Ohio with plant in West Virginia	
(a) Beech Bottom Power Co., Inc.	1917	West Virginia	
			1292
Indiana General Service Co.	1906	Indiana	
Appalachian Electric Power Co.	1923	Virginia West Virginia Tennessee	
(a) Kingsport Utilities, Incorporated	1925	Tennesseee	
(b) Kentucky & West Virginia Power Co., Incorporated	1922	Kentucky	
			1293
Southern Ohio Public Service Co.	1928	Ohio	
The Scranton Electric Co.	1906	Pennsylvania	
(a) Stanton Operating Co.	1927	Pennsylvania	
Atlantic City Electric Co.	1906	New Jersey	
(a) Deepwater Operating Co.	1929	New Jersey	
Kanawha Valley Power Co.	1931	West Virginia	

1294 Additional facts descriptive of the organization and capitalization of certain of these companies, and the manner in which they were acquired by American Gas, are set forth in Exhibit 99. A detailed description of the physical properties, methods of operation and the distribution of the business of each of these companies within the states in which they operate and across state boundaries is set forth in article XIX.

98. *Physical Integration of Properties.*

1295 All of the electric properties of the companies mentioned in the preceding section, with the exception of the properties of The Scranton Electric Company and Atlantic City Electric Company, are interconnected by means of transmission lines extending from the southern peninsula of Michigan through Indiana, Ohio and West Virginia to Virginia, Tennessee and Kentucky. The electric properties of The Scranton Electric Company and Atlantic City Electric Company are not physically interconnected with the electric properties of the other subsidiaries of American Gas. A competent witness for the defendants would testify that, in
1296 the present state of the art, the electric properties of The Scranton Electric Company and Atlantic City Electric Company are not capable of physical interconnection with the properties of the other subsidiaries of American Gas so as to be economically operated as a single interconnected and coordinated system, and the court, if material, may so find. The plaintiff and cross-defendants neither admit nor deny the foregoing statement but offer no countervailing evidence.

Stipulation of Facts

99. *Extent of System and Service.*

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The companies in the American Gas System now render electric service to an aggregate population of approximately 3,000,000 persons residing in 1,397 communities in the nine states in which they operate. These companies serve approximately 655,000 electric customers. They employ electric generating stations having an aggregate installed generating capacity of 1,178,364 kilowatts and approximately 6,086 miles of transmission lines and 13,503 miles of distribution lines. The aggregate gross revenues of these companies during the twelve months ending December 31, 1934, amounted to $61,399,572.02.

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100. *Relations of American Gas to Bond and Share.*

A. Bond and Share has owned and now owns the percentage of the total outstanding voting securities of American Gas hereinabove stated. Stockholders' meetings of American Gas have been held annually since its organization, and occasionally special meetings have been called for the approval of security issues, agreements or consolidations, or similar matters requiring the approval of stockholders. Calls or notices and proxies for these meetings were authorized by the board of directors of American Gas and the personnel of the proxies selected by its officers or directors. At such stockholders' meetings, Bond and Share has voted the shares of stock owned by it in American Gas through the proxies designated as aforesaid. Exhibit 100 is a table showing, for the past five years, the number of shares voted in person and by proxy

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at stockholders' meetings of American Gas, and
1300 the number of shares voted by Bond and Share. During these years Bond and Share has voted approximately 25% of the total number of shares of stock represented at such meetings, which percentage is typical of the percentage of stock voted by Bond and Share during prior years. Throughout the history of American Gas, there has been no instance in which there has been any contest over proxies or in which any interests hostile to the management of American Gas have organized opposition to its programs or policies or to the election of directors voted for by proxies designated
1301 by such managements.

B. The personnel of the board of directors and officers of American Gas is separate and distinct from that of Bond and Share and of the holding defendants, except that the same person is chairman of the board of directors of both Bond and Share and American Gas and that a vice-president and director of Bond and Share is a director of American Gas. The president of American Gas, who is its chief executive officer and a member of its board
1302 of directors, is a member of the board of directors of American Company, and has, in the past, served as a director of National Company and Lehigh Company.

C. The separate personnel of the directors and officers of the companies described in the preceding paragraph is substantially typical of this relationship throughout the history of American Gas. However, at different times, varying numbers of directors or officers of Bond and Share were likewise

directors, including the chairman of the board, of American Gas. During the ten years last past, out of a board of fifteen directors of American Gas, not more than three directors, at any one time, have been officers or directors of Bond and Share. 1303

D. Throughout their history, Bond and Share and American Gas have had separate offices. For many years last past the offices of American Gas have been located at 30 Church Street, New York City.

E. American Gas has, at all times, maintained its own bank account and its own portfolio of securities, and has, at all times, paid its own interest charges, dividends and all its other expenses and disbursements from its own funds. 1304

F. Neither Bond and Share nor either of its subsidiary service companies (Phoenix and Ebasco) has, at any time, had any supervisory or service contracts with American Gas or any of its subsidiaries, or has rendered any services to American Gas or its subsidiaries, except that, throughout the history of American Gas, Bond and Share has rendered financial services and advice to it and its subsidiaries in connection with the negotiation and sale of their securities, as hereinafter described. Such financial services have been rendered without any express contract between the parties, except as memoranda governing particular transactions might be executed from time to time. 1305

G. Bond and Share does not now own and for many years last past has not owned any voting securities of subsidiaries of American Gas.

Stipulation of Facts

101. *General Description of Business of American Gas.*

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Since the date of its organization, American Gas has acted, with respect to its subsidiaries, as a financing and investment company, and, in addition, has performed the functions hereinafter stated. Throughout its history, it has been engaged in the purchase and sale of securities of, and in the acquisition of, electric utilities, which were located in nine states, and in unifying the utilities owned in seven of these states and welding them into one large interconnected system. It has held investments in the securities of its subsidiaries, voted the voting securities so held, made cash advances to them from time to time as required, and realized earnings through interest and dividends upon such securities (and, in a few cases, incidental earnings from other sources) and paid interest on its own obligations and dividends on its own stock. In addition, the officers and directors of American Gas, acting in the capacity of officers and directors of the subsidiary companies, have performed the principal executive and managerial functions for such subsidiaries, and the centralized technical organization of American Gas in New York has supervised the operations of all such subsidiaries. A further and detailed description of the present relations between American Gas and its subsidiary companies is contained in the following sections of this stipulation. Such relations have existed in substantially their present form throughout the history of American Gas.

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102. *Relations of American Gas to its Subsidiaries.*

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A. *Directors.* A substantial majority of the board of directors of each subsidiary is comprised of officers, directors or senior employees of American Gas, having their principal office with American Gas in New York City. Exhibit 101 contains a table showing the personnel of the board of directors of each utility subsidiary of American Gas, indicating the directors who are also directors, officers or senior employees of American Gas.

B. *Officers.* The president of American Gas is likewise the president of each of the subsidiaries 1310
mentioned in section 97. With the exception of a general manager, who is the immediate operating executive of such subsidiary, and certain minor officers, all of the other officers of each subsidiary are likewise officers or senior employees of American Gas. Exhibit 101 contains a table showing the officers of each utility subsidiary, indicating those who are likewise officers, directors or senior employees of American Gas.

C. *Corporate Identity of Operating Companies.*
Each subsidiary of American Gas is separately in- 1311
corporated and most of them have their own securities (other than common stock) outstanding in the hands of the public. Each operating company deposits its funds, in the first instance, in banks located in the state or states which it serves, or in its separate bank account in Pittsburgh, Pennsylvania, and pays operating expenses incurred locally from such local funds on checks signed by its local officers or authorized employees. Funds in excess of those required locally are deposited in the Pittsburgh bank account of such company and are sub-

ject to disbursement, on appropriate voucher au-
1312 thorization, by the treasurer of the company who is also an officer of American Gas, and is stationed in New York.

D. *Operating Organization of Subsidiaries.* Each subsidiary of American Gas has its local operating organization, under the immediate direction of a Vice-President or General Manager, which conducts the business of such subsidiary subject, however, to direction, supervision and control by the executive officers of such subsidiaries in New York, assisted by the centralized technical staff of
1313 American Gas which is hereinafter more fully described.

E. *Payment of Wages and Salaries.* The salaries or wages of the local personnel of all subsidiaries are paid by such subsidiaries from funds deposited in local banks. The salaries of those officers and directors of subsidiaries who are likewise officers, directors or senior employees of American Gas, are paid, in the first instance, by American Gas and then prorated among American Gas and its subsidiaries in the manner hereinafter described.

1314 F. *Centralized Service Organization.* American Gas maintains in its offices in New York City a centralized executive and technical staff which renders managerial and supervisory services to the subsidiary operating companies. The functions of this staff are described in article XVII.

103. *Relation of Holding-Operating Companies in the American Gas System to Their Subsidiaries.*

A. American Gas embraces within its system the following operating companies which are also holding companies:

Appalachian Electric Power Company
The Ohio Power Company
Atlantic City Electric Company
The Scranton Electric Company

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The following paragraphs of this section describe these companies and their subsidiaries solely with reference to the interrelations between these companies and their subsidiaries.

B. *Appalachian Electric Power Company* (a Viriginia corporation), operating in the states of Virginia, West Virginia, and Tennessee, is a holding company owning substantially all the capital stock of Kentucky and West Virginia Power Company, Incorporated, a Kentucky corporation, conducting an electric utility business in territory in the eastern part of the state of Kentucky generally adjacent to the cities of Ashland and Hazard, and substantially all the capital stock of Kingsport Utilities, Incorporated, a Virginia corporation, conducting an electric utility business in and adjacent to the city of Kingsport, Tennessee.

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Kentucky and West Virginia Power Company, Incorporated operates exclusively in Kentucky, in which state its parent company, Appalachian Electric Power Company, conducts no operations. Kingsport Utilities, Incorporated operates exclusively in Tennessee, in which state its parent company, Appalachian Electric Power Company, conducts no retail operations.

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Both Kentucky and West Virginia Power Company, Incorporated and Kingsport Utilities, Incorporated buy substantially all their energy requirements from Appalachian Electric Power Company, the system of each being connected to the

1318 system of the Appalachian Electric Power Company at more than one point. Neither Kentucky and West Virginia Power Company, Incorporated nor Kingsport Utilities, Incorporated has any securities outstanding in the hands of the public; all bonds, preferred and common stocks of both companies being pledged as collateral under the mortgage of the Appalachian Electric Power Company. The president, secretary, treasurer and other chief officers, as well as the board of directors of Appalachian Electric Power Company, Kentucky and West Virginia Power Company, Incor-
1319 porated and Kingsport Utilities, Incorporated are officers or employees of American Gas and Electric Company and their services are furnished under a management arrangement, hereinafter described, between that company and the three operating companies mentioned.

Kentucky and West Virginia Power Company, Incorporated and Kingsport Utilities, Incorporated each has its separate operating organization (except that a few employees in one division of Kentucky and West Virginia Power Company, Incorporated are also employees of the division of Ap-
1320 palachian Electric Power Company immediately adjoining in West Virginia) with its own general manager. Each maintains its own separate corporate records, books of account, funds and payroll, but the main books of account of each company are kept by the staff of Appalachian Electric Power Company in consideration of a fixed charge based on apportionment of accountants' salaries, paid to it by each such company.

C. *The Ohio Power Company, Atlantic City Electric Company and The Scranton Electric Company.* The Ohio Power Company, an Ohio corporation, operating in the state of Ohio, but with a generating station also in the state of West Virginia, is a holding company owning fifty per centum of the capital stock of the Beech Bottom Power Company, Inc., a West Virginia corporation which owns no utility assets but is engaged solely in the operation of an electric generating plant at Power, West Virginia, approximately one-half of which is owned by The Ohio Power Company. Beech Bottom Power Company, Inc., furnishes electric energy to The Ohio Power Company at the said electric generating plant and also furnishes energy to the West Penn Power Company, a non-associate electric utility company, which owns the other half of said electric generating plant. 1321 1322

Atlantic City Electric Company, a New Jersey corporation, operating in the state of New Jersey, is a holding company owning fifty per centum of the capital stock of the Deepwater Operating Company, a New Jersey corporation, which owns no utility assets but is engaged solely in the operation of an electric generating plant at Deepwater, New Jersey, near Pennsgrove, New Jersey, approximately one-half of which is owned by the Atlantic City Electric Company. Deepwater Operating Company sells steam at the wall of said electric generating station and electric energy at the plant substation to one industrial plant for use wholly within the state of New Jersey, and also furnishes electric energy to the Atlantic City Electric Company and to Deepwater Light and Power Company, a non-associate electric utility company, which owns the other half of said electric generating plant. 1323

The Scranton Electric Company, a Pennsylvania
1324 corporation operating in the state of Pennsylvania, is a holding company owning fifty per centum of the capital stock of The Stanton Operating Company, a Pennsylvania corporation, which owns no utility assets but is engaged solely in the operation of an electric generating plant at Stanton, Pennsylvania, approximately one-half of which is owned by The Scranton Electric Company. Stanton Operating Company furnishes electric energy to The Scranton Electric Company at the said electric generating plant and also furnishes energy to the
1325 Pennsylvania Power and Light Company, a subsidiary of National Company, which owns the other half of said electric generating plant.

Beech Bottom Power Company, Deepwater Operating Company and Stanton Operating Company were originally incorporated to perform and now perform the single function of operating the generating plants above mentioned, dividing between the two owners of each plant who take the electric energy output thereof, the plant costs. None of said companies has any securities outstanding in the hands of the public, and their only capitaliza-
1326 tion is in the form of common stock. The outstanding common stock of each of said companies is owned, in equal proportions, by the two companies to which it supplies power. Each of these companies maintains its own separate corporate records, books of account and funds. The officers and directors of each company are persons nominated by the two utilities which own its capital stock.

ARTICLE XVII

1327

SERVICES RENDERED TO SUBSIDIARIES OF AMERICAN GAS

104. *General Statement.*

A. The supervisory and other services rendered by American Gas to its operating subsidiaries are performed without any written contract or agreement between them. The character and extent of the services performed by American Gas and the compensation which it receives therefor are based upon informal understandings between American Gas and its subsidiaries, except that the Board of Public Utility Commissioners of New Jersey has recently required American Gas and Atlantic City Electric Company to file with it, for approval, a letter-contract covering the service arrangement, and similar Commissions of the States of Pennsylvania, Virginia and West Virginia have required the subsidiary utilities of American Gas operating in those states to file a memorandum (not executed by American Gas) descriptive of the service arrangement.

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B. American Gas has no office or place of business other than its principal office and place of

business in New York City, and all of the officers
1330 and employees of American Gas have their headquarters in New York City. The principal offices and properties of all of its operating subsidiaries are located outside of the State of New York. All communication between American Gas and its operating subsidiaries, and all travel by officers and employees of American Gas and of its operating subsidiaries between the offices of American Gas and the properties of such subsidiaries require communication or travel across state lines.

C. The staff of American Gas consists of ap-
1331 proximately 260 persons who are engaged in performing the managerial and technical services described below. This staff is organized into specialized departments prepared to handle every type of problem of the subsidiary operating companies which fall within their respective jurisdictions. The personnel of these departments has been recruited largely from the personnel of the operating companies who have been trained by American Gas.

D. The New York office of American Gas is the central office of the American Gas System.
1332 Each department of American Gas is in contact with the operating companies by correspondence and visits to the properties. The operating companies prepare and submit to American Gas detailed reports reflecting every phase of their operations. The New York office is in contact with manufacturers, wholesalers, dealers, other utilities, national utility and research oragnizations and others. It carries out studies and researches and

compiles and makes available to the operating companies plans and methods for the conduct of their business. Such plans and methods are prepared by American Gas in co-operation with local managements and distributed to the operating companies in the form of pamphlets, circular letters, reports, charts, individual letters and the like. In this manner, American Gas plans and coordinates the development of the properties of each of the operating companies. 1333

105. *Administrative Department.*

This department consists of executives of American Gas, who also act as principal executive officers and directors of the operating companies. Such executives, with their assistants, perform, for American Gas and every operating company, all functions and duties required of such corporate officers. These activities include those of a president, secretary, treasurer and, in some cases, some of the functions of a general manager. 1334

106. *Legal Department.*

The legal department staff serves as a central law office for the operating companies, preparing and distributing to them opinions and advice on their legal problems. It represents all the operating companies in the following capacities, advised and assisted in important matters by the New York City law firm which regularly acts as outside counsel for American Gas and its subsidiaries, and which likewise regularly represents Bond and Share: 1335

Drawing and recording of mortgages.

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Examination of deeds and abstracts of title for acquisitions of property.

Preparation of deeds for disposing of property.

Preparation of applications, protests, etc. to regulatory and tax commissions, and appearances before them.

Furnishing opinions, certificates, etc. to trustees and others in connection with security

1337 issues.

Assistance in the negotiation of and preparation of all important contracts.

Consultation on damage and accident claims.

Negotiations with respect to franchises, street lighting contracts and state and municipal regulation.

Preparation of all corporate papers.

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Preparation of papers and appearances in condemnation cases.

Examination of new statutes and court decisions for guidance of company officers.

The bulk of the legal work of the operating companies is handled by direct communication between the New York office and the operating company,

without the advice of local counsel. Matters such as the interpretation of state laws or appearance in 1339
state courts are handled in conjunction with local counsel.

107. *Accounting and Auditing Departments.*

A. It is the function of these departments to supervise the accounts of every operating company in the system, continually checking accounts both in the field and in New York, and to prepare standard forms of financial reports to be used by all operating companies.

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B. The auditing department audits the accounts of every company in the system. This work is extensive, keeping twenty-eight auditors continuously in the field, travelling from company to company. These field auditors also prepare summaries of accounts for transmittal to New York. In addition to routine audits, they make special audits which include the investigation of properties under consideration for purchase. The auditors follow closely the developments in accounting and recommend and supervise the installation of new methods of accounting and new types of mechanical equipment. 1341
These activities involve extensive communication between New York and the operating companies and result in the transmission of a large number of reports, journal entries and the like between these points.

C. The accounting and auditing departments make a detailed verification and audit of:

Every bill against the subsidiaries as to com-
1342 putation and reasonableness of price.

Every voucher as to computation and classification.

Every payroll as to correctness of rate, computation and classification.

Every petty cash disbursement as to computation and classification.

Every freight and express charge.

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Perform work of recording and routing improvement requisitions through New York office.

Verification and calculations for other departments in New York.

Keeping detail automobile cost records.

D. All work necessary in connection with annual stockholders' meetings of all the companies is done
1344 by these departments. This work includes preparation and issuance of notices and proxies for meetings, preparation of the agenda, preparation and maintenance of complete corporate minutes, advising interested parties of the results thereof and preparing certified excerpts of these minutes for distribution to interested parties.

108. *Stock and Dividend Department.*

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The stock and dividend department performs the following duties in connection with stock records and dividend disbursements and related matters:

Compute individual dividends and complete quarterly dividend lists for more than 50,000 stock accounts.

Prepare, verify, sign, enclose and mail more than 200,000 dividend checks per annum.

Maintain company records of stockholders, post transfers and changes, revise addressograph plates, and supply stockholders' lists to local officials on demand. 1346

Follow the dividend accounts in banks to insure actual disbursement of dividends to stockholders.

Follow printing and engraving of stocks and bonds and control of supply of both.

Follow coupon accounts in banks. 1347

Attend to cremation of paid and cancelled coupons and bonds.

Arrange for custody of securities owned by the companies.

109. *Statistical Department.*

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This department has the following functions:

Preparation of monthly and annual reports and their distribution.

Answering requests for information from stockholders and others.

Supervision and review of reports for all regulatory and tax commissions.

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Preparation of returns to questionnaires (governmental, trade associations, etc.)

Preparation of financial and statistical information for periodicals and reference manuals (Poor's, Moody's, etc.).

Preparation of consolidated income statements, balance sheets and all subsidiary schedules.

110. *Purchasing Department.*

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A. The purchasing department negotiates volume purchase contracts with manufacturers or jobbers for materials, apparatus, supplies and equipment required by the operating companies. Such contracts permit these operating companies to purchase specified materials, apparatus, supplies and equipment from the manufacturer or jobber, and to receive the discounts therein provided for. These contracts are of three general types:

(1) Contracts which provide for a specified discount to the operating company at the time of purchase. Most of such contracts provide a fixed discount, determined at the time of execution of the contract. Other contracts require a minimum volume to be purchased during the contract period as consideration for the discount. 1351

(2) Other volume purchase contracts allow discounts to the operating companies based upon the aggregate value of the purchases made thereunder by all operating companies during the contract period. At the close of each contract period, checks aggregating the amounts of the discounts provided for in the contracts are made up by the manufacturer or jobber, payable to the several operating companies, in amounts proportionate to their respective purchases. These checks are thereupon transmitted to American Gas, which checks the accuracy thereof and thereafter either deposits them to the credit of the payees or transmits them to the principal office of the payee. 1352

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(3) Other volume purchase contracts covering materials constantly used by all operating companies are in the form of firm orders for specified quantities to be delivered during the contract period, reserving billing and delivery instructions. Under this type of contract, the billing and delivery instructions are given by American Gas, from time to time, in accordance with the needs of the respective

operating companies. The discount obtained is
1354 the usual type of large order quantity discount.

B. In addition to volume purchase contracts, the purchasing department negotiates special contracts for the purchase of special materials, equipment, apparatus and supplies required by the operating companies. Some of these contracts which provide for deliveries to specified operating companies are signed by American Gas and others are signed in the name of the operating company by its New York executives. The materials, equip-
1355 ment and supplies covered by such special contracts are shipped directly by the vendor to the operating company. Payments for such purchases are made by a check drawn by an authorized employee of the operating company in the field.

C. Exhibit 102 contains a collection of typical purchase contracts and orders negotiated by American Gas for operating companies. Exhibit 103 contains statements of (1) the gross purchases of American Gas and its subsidiaries, indicating so far as such data is available, purchases made
1356 pursuant to contracts negotiated by American Gas and those made by the operating companies themselves; (2) a list of contracts for "blanket" requirements negotiated by American Gas and in effect May 1, 1936; and (3) an itemized list of materials and equipment purchased by the operating companies not under contracts negotiated by American Gas.

D. A substantial portion (the exact dimensions of which cannot be ascertained without an extensive examination of purchase records), which may or may not constitute a majority in value or bulk, of the materials, apparatus, equipment and supplies purchased by the operating companies pursuant to contracts negotiated by American Gas were transported across state lines from the factory or place of business of the manufacturer or jobber to the point of their receipt by the operating company. 1357

E. The following is a description of the typical manner in which routine orders for materials, equipment, apparatus and supplies are routed and filled: When the operating company finds that it needs equipment, supplies, apparatus or materials, the local storekeeper fills out a requisition blank. This requisition shows the type and quantity desired, the use to be made thereof and the preference, if any, as to the delivering carrier. The requisition is sent to the local purchasing agent where the items that the local agent is authorized by the New York office to purchase are ordered and checked as having been purchased. The requisition, together with copies of orders covering the goods purchased locally, are then sent to the New York office, from which point the remaining supplies or materials are ordered from the manufacturer either under a blanket or a special contract, as described above, or by a purchase order. In the case of emergency needs, the above procedure is not followed, but the purchases are made locally. Orders for major apparatus and equipment requiring engineering specifications are prepared in New York by American Gas engineers. 1358 1359

F. The purchasing department classifies and
1360 checks freight bills and routes shipments.

G. In connection with purchasing, the appraisal and insurance department is regularly informed by the operating companies of all material and equipment no longer required by them. This includes both excess stores and reusable salvaged equipment. This information is compiled and transmitted periodically to all operating companies in order that they may purchase or exchange such material and apparatus among themselves. A substantial majority of the apparatus so purchased or
1361 exchanged is transmitted across state lines between the operating companies. Exhibit 104 is a table of the estimated dollar value of material and equipment purchased or exchanged among the serviced companies for the years 1929 to 1935, inclusive.

111. *Commercial Department.*

The activities of this department cover promotion of appliance and energy sales by the operating com-
1362 panies, also rates, rate structures and advertising.

A. The department is continually engaged in the promotion of the sale of household electric appliances, both through salesmen of subsidiary companies and through independent local dealers. The work includes the sponsoring and pressing of sales contests among all the operating companies, the distribution of suggestions to each operating company and the relaying of information gathered from the operating companies, manufacturers and

from other organizations in the electrical field. This department keeps informed as to the technical 1363
aspects and developments of the appliances sold and regularly distributes to each operating company large numbers of booklets, pamphlets and memoranda prepared by manufacturers. It negotiates with manufacturers to obtain favorable agreements to facilitate the sale of appliances. To stimulate sales by local dealers, it has devised a plan for its subsidiaries to finance the sales of appliances offering low rates of interest and a contribution to the trade-in allowance on old appliances. To stimulate sales, it maintains and 1364
makes continually available a trained planning staff which directs sales campaigns throughout the year. It prepares minimum sales quotas for each operating company, and by circular letters, competitive campaigns and charts showing the relative standings of each company, it stimulates each local sales force. It prescribes the scale of commissions and bonus payments for salesmen in the operating companies.

B. It advises with respect to the layout and decoration of sales rooms, prepares all advertising 1365
copy, billboard advertisements and auto placards used on every operating company auto, and distributes them to the operating companies.

C. The commercial department makes studies and analyses of rate policies and structures, including studies and analyses of service characteristics and the needs of various classes of customers. It maintains complete files of rate structures of the serviced companies. It designs rate schedules

for each operating company, attempting to ap-
1366 proach, insofar as feasible, a standard schedule for all companies. Such schedules are subject to approval by the state commission having jurisdiction over utility rates in the state in which the operating company operates. It handles important rate complaints made by customers of the serviced company. It assists the operating companies before state commissions in connection with rate matters.

D. This department negotiates large consumer contracts and solicits and negotiates with the management of new industries to locate within the
1367 territory served by the operating companies.

E. A substantial portion of the time of the experts and specialists employed in the commercial department is spent upon the properties of the operating companies.

112. *Appraisal and Insurance Department.*

This department handles the placing of all insurance taken out by the operating companies. Exhibit 105 is a table of the insurance so placed. The
1368 work includes physical inspection of all properties, prosecutions of claims for loss, accident prevention and safety work. It handles group insurance records for the employees, it prices major retirements, prepares inventories and makes reports with a view to cooperating with the commercial and purchasing departments in making available to the proper executives information to be used in connection with acquiring new properties. It arranges a thorough and complete interchange of in-

formation between subsidiaries concerning equipment which is surplus or unusable on one property which might be used to advantage on another. 1369

Substantially all of the time of the appraisers and a large part of the time of the executives of this department is spent in the field.

113. *Engineering Department.*

A. The engineering department actively participates in and supervises engineering problems that arise in the operating companies. This work is classified as construction and operation. 1370

B. *Construction.* This department handles all major engineering work in connection with construction activities undertaken by the operating companies. This involves (1) making preliminary studies of operating companies' property to determine the necessity for new construction and the type desired; (2) preparing the necessary requisitions for the work for submission to the board of directors of American Gas which (when recommended by such board) are adopted by the board of directors of the operating company; (3) designing and preparing in the New York office complete preliminary drawings and plans; (4) coordinating all phases of construction by negotiation with manufacturers for materials to be used, inspecting the manufacturing of these materials and letting all general contracts; (5) supervising at all times the progress of the construction; and (6) completely inspecting the finished job preparatory to the acceptance of the work by the operating companies. 1371

1372 Such supervision involves regular communication between American Gas and personnel at the site of the construction work.

C. *Operation.* The engineering department renders to each operating company a complete range of specialized general engineering services required by it in the operation, maintenance, development and extension of its system and the interconnection of its system with other systems. A substantial portion of the time of the members of the engineering department is spent visiting the properties of the
1373 operating companies. The members of this department carry on continuous studies of and research into all matters relating to operating company problems, the results of which are compiled and made available to each operating company in the form of periodic reports and answers to special requests concerning problems peculiar to the individual company. In addition, engineering men from the field are periodically brought to New York for discussions, training and instruction.

D. The engineering department carries on co-
1374 ordinating activities with various industrial groups such as:

National Electric Manufacturers Association
Bell Telephone Companies
American Railway Association
National Fire Protection Association

The benefit of these activities are continually made available to each operating company through reports and answers to special requests.

E. This department collaborates with the other departments in negotiating and handling contracts for power interchange, for jointly operated generating stations and for unusual power supply contracts. 1375

114. *Methods of Calculating Charges for Services.*

Charges are made against the operating companies for the various services rendered to them by American Gas. These charges are calculated so as to allocate the costs initially borne by American Gas in maintaining these different services for itself and its operating companies among itself and the constituent companies. These charges are computed in the following manner: 1376

The operating costs of each department are calculated for a given period by the accounting department. These costs include all salaries paid by American Gas, all rent, the cost of supplies and other expenses. They are apportioned among American Gas and its subsidiaries in the following manner:

In the case of the administrative, legal, finance and accounting, statistical and filing and mail departments, American Gas pays 25% of the cost, the remaining 75% of the cost being apportioned among the subsidiaries in the proportion which the operating revenue of each subsidiary bears to the total revenue of all subsidiaries. 1377

In the case of the auditing, purchasing, commercial and appraisal and insurance departments, the

entire cost is apportioned among the subsidiaries
1378 in the proportion which the operating revenue of each company bears to the total operating revenue of all subsidiaries.

In the case of the stock record and dividend disbursement department, the entire cost is apportioned among American Gas and its subsidiaries in the proportion which the number of stockholder accounts of each company bears to the total stockholder accounts.

In the case of the engineering department, the costs are divided into construction and operating costs. Subsequent to the middle of 1932, the charge
1379 for engineering services has been determined as follows: The amount determined for construction costs is apportioned among the subsidiaries in the proportion which the month's fixed capital expenditure (less certain exemptions) of each subsidiary bears to the aggregate of such expenditures for all subsidiaries. The amount so determined for operating costs is apportioned among the subsidiaries in the proportion which the operating revenues of each subsidiary bears to the total operating revenues of all subsidiaries. Prior to the middle of
1380 1932 the charge for engineering services was determined as follows: The operating companies were charged by American Gas a fee of 10 % on certain enumerated items of capital expenditure, computed monthly. From the proceeds of these fees American Gas paid all expenses of its engineering department and charges of consulting engineers employed on specific construction work, absorbing in its income the difference between the aggregate payments made to it by the operating companies and the costs of its engineering service.

In each department, the actual travelling expenses of the members are charged to the particular subsidiary for which they are incurred. 1381

115. *Bibliography of General Reports and Studies.*

Exhibit 106 contains a bibliography of letters, bulletins studies and reports prepared by American Gas for distribution among the operating companies or prepared by outside sources and transmitted by American Gas through the mails to all of these companies during the calendar year 1935.

Exhibit 106 likewise contains a bibliography of reports prepared generally by each operating company and submitted to American Gas during the year of 1935. 1382

116. *Financing of American Gas and Its Subsidiaries.*

A. The last public financing by issue of bonds, debentures, preferred stocks or other securities by American Gas or any of its subsidiaries was accomplished in the year 1928, except that sales of preferred stock of subsidiary companies (purchased by American Gas from such companies) to customers in customer-ownership campaigns in the territory in which such subsidiary companies operate have been made up to and including the year 1932. The description hereinafter given of financing services of American Gas and the relations of both American Gas and Bond and Share to financing of American Gas and its subsidiaries relate 1383

to services and relations existing prior to those
1384 dates.

B. Funds temporarily required by the operating companies in the American Gas System are loaned to them by American Gas in the form of unsecured short term loans.

C. All documents required in connection with permanent financing of American Gas and its subsidiaries (bond, debenture and preferred and common stock issues) have been prepared by the legal and financing departments of American Gas, as-
1385 sisted, in important matters, by the New York City firm of attorneys which acts as outside counsel for American Gas, being the same firm which acts in a similar capacity for Bond and Share.

D. There are not now and never have been any written service contracts or agreements between Bond and Share and American Gas and its subsidiaries with respect to the performance by Bond and Share of financial services as hereinafter described. Bond and Share has performed such services upon the oral or written request of American
1386 Gas, without any previous formal authorization to act (but subsequently confirmed) by the board of directors of American Gas or of the issuing company, and has received fees for such services calculated upon substantially the same basis as the fees received by it for financial services rendered to American Company, National Company and Electric Company and their subsidiaries pursuant to the service contracts.

E. In all cases in which the securities of American Gas or its subsidiaries have been marketed through a purchasing group of investment bankers, negotiations for the sale of such securities to the purchasing group have been conducted by Bond and Share, acting on behalf of the issuing company. 1387

In many instances of the sale of securities of a subsidiary of American Gas to a purchasing group, the subsidiary sold such securities to American Gas in the first instance, at a price agreed upon between the parties. Thereafter American Gas sold such securities to the purchasing group, through the agency of Bond and Share, as above stated. In the event that the net proceeds of such sale by American Gas were in excess of the price originally paid by it to its subsidiary, American Gas paid over to such subsidiary the excess. In the event American Gas realized a less price than that paid by it to the issuing company, as sometimes occurred in cases of sales of preferred stock in customer-ownership campaigns, it absorbed such loss itself. 1388

After a favorable commitment had been obtained, Bond and Share prepared purchase contracts in the form of a letter from the purchasing group to the selling company confirming the agreement made with the selling company through Bond and Share and setting forth its terms. This letter was customarily signed for the company by an officer of such company who was also an officer of American Gas located at its offices in New York City. The purchase contract was made subject to the approval of and was subsequently ratified by 1389

1390 the board of directors of the issuing company. Certain other doucments, such as engineer's certificates, opinion on titles, franchises and the like were prepared either in the field or by the American Gas organization in New York City. The securities were printed or engraved in New York. American Gas and the purchasing group nominated the trustees designed by the issuing companies, which trustees were generally New York City banks, and the bonds or debentures were deliverd for crtification and registration and thereafter to the purchasing group in New York City.

1391 Bond and Share prepared a letter addressed to the purchasing group for the signature of the President or Vice-President of the issuing company, describing the issue, and such letter was usually signed by an officer of the issuing company who was also an officer of American Gas located in its offices in New York City. Such letter was thereupon incorporated in the selling circular likewise prepared by Bond and Share. After the delivery of the securities to the purchasing group in New York, they were distributed to bankers, brokers, dealers in securities and individual investors located in

1392 important investment centers throughout the country. From this point, the securities were further distributed both locally and by use of the mails and the facilities of interstate commerce to the ultimate investors.

F. In all cases in which preferred stock of subsidiaries of American Gas has been sold to their customers in the territory which they serve, Bond and Share directed such sales.

The procedure was as follows, both in the case of the sale of original issue stock and in the case of the sale of stock issued to American Gas in the first instance and subsequently sold by it: Certificate books, containing engraved certificates in appropriate denominations were prepared in advance of need by American Gas in New York. The certificates were executed by officers of the issuing company who usually were also officers of American Gas. Certificates for limited amounts of stock were placed with the transfer agent subject to order of Bond and Share and/or the selling company. Upon agents and registrars who, in some cases, were local and, in some cases, trust companies of New York the sale of shares of stock, the certificates therefor were registered and transferred by the transfer and other places. A staff of men attached to the customer-ownership division of Bond and Share's security department were sent to the office of the issuing company to take active direction of the selling campaign in the field. These men thoroughly instructed, trained and directed employees of the issuing company and salesmen employed for the purpose of making sales of stock to the public. Sales were also made by members of the customer-ownership department of Bond and Share themselves. Bond and Share likewise prepared and transmitted to the principal office of the issuing company advertising material consisting of pamphlets and circulars, prepared news items and paid advertising copy. Sales were made to employees and consumers of the issuing company and to residents, both within and adjacent to the territory served by it. All expenses, including commissions

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and sales bonuses were paid out by Bond and Share
1396 in the first instance with subsequent reimbursement to it by the issuing company.

G. All circulars and other advertising matter distributed to bankers, investors and others in connection with the sale of securities of American Gas or its subsidiaries were prepared by Bond and Share as a part of its financial services, and, after verification or corrections where required, were approved by American Gas before release. They contained a statement reading substantially as follows: "The finances of the American Gas and
1397 Electric Company and of its subsidiaries have always been handled through the Electric Bond and Share Company". Such circulars and advertising matter further stated the names of the directors of Bond and Share who, at the time, were also directors of American Gas.

H. As elsewhere stated in this stipulation, the chairman of the board of directors or president of Bond and Share and a vice-president of Bond and Share in charge of its financing department, and at some times one other director of Bond and
1398 Share, have been chairman of the board of directors of American Gas and have attended meetings of said board and participated in discussions for financing American Gas and its subsidiaries. The former chairman of the board of directors of both Bond and Share and American Gas (who resigned both offices in 1933) was financial advisor to American Gas and took a leading part in outlining financial programs for American Gas and its subsidiaries.

I. Exhibit 107 is a table of loans and advances from American Gas to its subsidiaries for the years 1920-1935. The aggregate principal amount of each bond or debenture issue and the number of shares of each stock issue of American Gas and its subsidiaries, the sale of which to a purchasing group was negotiated by Bond and Share in the manner above described, together with the names of the members of each purchasing group participating therein and the offering price thereof, and the number of shares of stock of subsidiaries of American Gas which were sold in customer-ownership campaigns in the manner above described, for the years 1920-1935 are shown in Exhibits 96 and 97. 1399 1400

117. *Income from Performance of Services By American Gas.*

Exhibit 108 is a statement of the income of American Gas from all sources and its expenses for the years 1920-1935, indicating the amount of income received by it from each source, including income received by it from the performance of the services described in this article. The expenditures of the subsidiaries of American Gas for such services are recorded by them on their books of account, in part as an operating expense for the current year and in part as a capital investment in the business in which they are engaged. 1401

118. *Personnel of American Gas.*

Exhibit 109 is a table showing the personnel of the departments of American Gas described in the foregoing article.